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MARRIAGE AT THE EDGES –
FROM THE MARGINS TO THE CENTRE

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ABSTRACT

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This thesis examines the theological implications of marriages of people with a learning disability or post-menopausal (and childless) marriages. In addition, the implications of changes in the parenting role, especially where children exist before marriage are examined. The work is based on a new methodology which I have developed and named Evidential Theology, which is used to establish which prior theological assumptions about marriage are inconsistent with evidence from the world around. The methodology is founded on the principle that God's incarnation, acting in and through the whole of the created order, is an on-going process which means that our knowledge and perception of God's intentions for humanity is on-going, changing and unlimited. A new contribution to Disability Theology is made in order to address specific issues with learning disability which are distinct from physical disability. Detailed consideration is given to whether a contractual basis for Christian marriage is helpful and an extensive examination is made of both a possible right and a duty to have children and it is concluded that neither exists absolutely. Major changes in the role of parenting are documented, especially that more marriages take place now in which either or both partners already have children, together or separately.

In order to cope with a number of apparently irreconcilable tensions between different aspects of marriage theology, a theory of Uncertain Theology is proposed which asserts that the more certain we want to be about a particular ethic, the less we know about God, and vice versa.

The thesis proposes that the church, especially the Church of England, should abandon its legal registration role and adopt a more flexible covenant approach which focuses more on under-pinning marriage through its existence, rather than establishing exit conditions which only apply when it comes to an end. It is further advocated that the church should provide, within a marriage liturgy, the opportunity for sealing before God other covenants such as with pre-existing children and elderly dependants.

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1. Introduction

In this thesis I will examine the theology of marriage through three case studies using a new theological methodology which combines the incarnational view that God continues to act and speak through the whole of the created order with the principle that objective evidence can, as in Popper (1959), be used to refute arguments, thus acting as a counter-weight to tradition and dogma. I have named this approach Evidential Theology. Apparently contradictory issues which emerge from this examination will lead me to a further methodological development to called Uncertain Theology. One of the case studies concerns people with a learning disability¹ and I will seek to develop from disability theology (which frequently focusses on physical disability) a better perception of how learning disability is to be understood within Christian theology.

For centuries, the church's² teaching on marriage has been close to the centre of its essence – no-one suggests that marriage theology is a necessary component of what Christianity is about but, in practical terms, its influence on both followers and the wider societies within which the church has operated, has been crucial. Attitudes to marriage, as a subset of those about human relationships more generally, have not only been very influential in how people behave, but also have been used to explain otherwise mysterious aspects of faith.

As a result, the church has not only sought to define how marriage (both in terms of an event as well as a life-time activity) should be conducted, but also have used that definition of marriage to explain the relationship between God and humanity³. I will look critically at this use of 'marriage as a paradigm' and show that it is a major flaw in many strands of traditional thinking.

In consequence, change in how marriage is defined and perceived is hampered by its perceived effect on the understanding of God – and vice versa. Too frequently, the development of Christian theologies on human relationships, and marriage in particular, has been slow to recognise both errors and incompatibilities with their contemporary society. Emotional tradition (ideas brought forward from the past which are difficult to contemplate losing) has held back theological thinking and its wider acceptance within the church, which has simultaneously lost control of the situation when the wider society moves in ways which are independent of and out of step with

current church teaching. The consequence is often a loss of the prophetic role just at the time when secular experience needs to be challenged and pressed to understand how best to experience relationships with the insights that the gospel message can express.

In this thesis, these problems are addressed by considering three issues, all of which have had little historical development (sometimes for cultural reasons but mainly because the issues simply did not exist) but which speak both to the concept of marriage theology as well as our understanding of the God-humanity relationship.

To do so it is necessary to develop a methodology which enables the introduction of these new situations into the overall mix, whilst remaining aware of general trends in theological and philosophical methods. It will be found that this leads to apparent conflicts between aspects of traditional thinking and the needs of these new contexts and so it will also be necessary to find a methodology for handling these discrepancies.

The methodology develops in two stages. At first we set out Evidential Theology, a way in which we can use the evidence from the world around us as a corrective to a dependence only on tradition and a traditional understanding of scripture. In the second stage, we need to understand how it may be possible to accept that a unified understanding of God, and within that a unified approach to enduring relationships, can still lead to apparently different outcomes in different situations. This we call Uncertain Theology.

The purpose is not fatally to deconstruct the concept of marriage (either in a Christian or a secular sense) but to seek a better theological formulation that enables the church to be more effective in supporting human relationships in response to current dilemmas as well as, through its methodology, to those of the future.

1.1 From the Margins to the Centre

In scientific progress, it is often by worrying about marginal cases which do not quite fit the general rule, that new knowledge is discovered. It is not sufficient to find ways of explaining the margins on their own, the real challenge is to combine a successful

explanation of the awkward data whilst *at the same time* explaining equally well those cases which were already handled well.

In *Introducing Body Theology*, Isherwood says, “An incarnational religion that declares universal salvation must pay attention to all that is incarnate” (Isherwood and Stuart, 1998, p114). In other words, if we assert that God is in and acts through the totality of the created world and that salvation is for all people, then we cannot confine our theology to fit the circumstances of a convenient subset. A theology of marriage cannot fit only the ‘easy’ cases – it must evolve to incorporate ‘all sorts and conditions’ of humanity.

By looking in more detail at three quite different situations:

- Learning Disability Marriage
- Changes in Parenting Role
- Post Menopausal Marriage

we aim not only to provide a successful theological basis for each of them but also to be able to carry that back into our understanding of marriage in the broader case.

If we are to establish an inclusive theology – for this is a pre-condition of this thesis - then anything which can be shown to be unworkable in any one of these cases ought to be removed from the mainstream. To anticipate the more detailed discussions below, let us take one example.

The concept of the *marriage vow* has long been central to an understanding of marriage, a vow which carries with it a contractual nature. Indeed, without it some would consider that the marriage never existed. As Coontz (2006a) points out, it was not until the 16th century that it was generally considered necessary for a man and a woman to do other than to exchange ‘words of consent’ and that until 1754 the English state did not require a license for a marriage to be valid.

However, there has been little consideration of what happens if one or other partner is unable in a full legal sense to enter into a *contractual* obligation, through an assumed inability to understand the implications. Adults with a learning disability may or may not be able to enter into legally-binding situations – this is a secular, not theological

consideration. If they are not, but otherwise are able to establish a personal relationship that seeks marriage, there may be doubts about proceeding.

If we accept the principle that being able freely to marry is a basic human right, almost regardless of the theological context, and that some people given such a right are unable to enter into the marriage contract, it may be necessary to question the need for such a contractual vow.

The choice of the three contexts identified above has been made deliberately: there is limited, if any, cultural hangover from earlier generations, especially those from the times when scripture was written. The issues simply did not exist. We can use these examples to look at contemporary secular phenomena without *a priori* moral or religious assumptions that cloud the debate when considering changes in attitude to, for example, slavery or same sex relationships.

Moore identifies, from a Catholic church⁴ perspective, why it has become necessary in the modern period:

when so many do not recognise the divine right of the church to speak on such matters. It can no longer lay down the law, and must earn the right to be heard by those who disagree with it. It can only do so if it seeks to persuade and convince of the rightness of its position, if it appeals to reason
(1992, p viii).

By the time we reach our conclusion, we shall have found a way of better identifying the domain in which the church (or theology) can properly intervene and where it ought not.

Chesterton is alleged to have said “*When people stop believing in God, they don’t believe in nothing – they believe in anything*” The same could be said just as tellingly about society’s reaction to the church’s teaching on marriage. Having rejected the confines of the teachings of most church authorities, and many Christian writers, the world has adopted such a variety of marital and quasi-marital arrangements that it is tempting to claim that “*anything goes*” – a caricature of post-modern philosophies.

It is, perhaps, better to see the current times more as a huge social experiment in relationships, whether or not they are formally or legally defined, with many different ideas being tried out. As yet, no all-encompassing principle seems to have emerged

which speaks with a clear voice to all of the many different situations to which people are seeking solutions.

In the US, even more than in the UK, marriage has undergone radical change in practice – if not in public and political policy. Coontz responds to US Census Bureau results by saying, “*For the first time in 150 years, households headed by single adults and unmarried couples now outnumber married-couple families*” and continues, “*It doesn’t mean marriage is doomed. It does mean we have to start thinking differently about the way we design our social policies*” (2006b).

It may well be that a kind of post-modern principle endures – that the only test of whether a particular marital arrangement is acceptable is how it plays out in each individual case. On the other hand, the church seeks to speak more clearly and to use the collective experience of humankind, from past generations as well as the present, in helping individuals to lead better lives than they would if left entirely alone to devise their own solutions. A possible difficulty with postmodernism is that it may not readily permit successive generations to distil their experience for the benefit of those that follow. In any event, pastoral needs dictate that an ability to forewarn of future dangers (or to encourage best practice) is better than a *post hoc* analysis of what went wrong.

To achieve the aim of speaking more effectively to contemporary society about the nature and experience of relationships we need to develop a methodology which is neither modernist (in which observations might be expected to ‘prove’ a particular theological assertion; for example, it might be asserted that certain activities are morally wrong because they are not natural) nor postmodernist (in which generalisation from the particular, or the induction of certain conclusions based on objective evidence, is considered unjustified). Instead we need to establish a means by which we can look, as objectively as we can manage, at the experience of marriage in specific contexts and use those observations in some way as we establish a more comprehensive theological analysis.

1.2 Why Is Marriage a Theological Issue?

Much Christian writing about marriage, both contemporary and historical, makes the tacit assumption that this is a proper subject for theological concern. However, it bears consideration why this might be so and, if it be so, whether it merits different consideration from other inter-personal matters. The following discussion draws in detail on the history of the UK but, until the Reformation, the situation in most Christian cultures was broadly consistent.

In our present culture it is important to set aside a number of possible reasons for theological intervention into the notion and practice of marriage – both the event and the extended experience that follows a specific ceremony.

Firstly, the advent of the Hardwicke Act⁵ established the church as both a religious and a civil partner in the process. In order to counter the trend in clandestine marriages, with all the subsequent legal wrangling, the church was the only available nation-wide authority with the means to provide a registration service. The extent to which such legal disputes existed can be seen in Leneman (1999), Probert (2009) and Bannet (1997). The sporadic record-keeping that preceded the Hardwicke Act did not necessarily bode well and it took a few years for an efficient system to be in place. (Lemmings, 1996, p344) From at least as far back as the twelfth century, both state and church had regarded a simple ceremony in which words of consent were exchanged and witnessed as being sufficient to establish a valid marriage. Gradually, the requirement to perform this ceremony in front of a priest became established, primarily as a means of exercising some control over the situation. Increasingly frequent litigation led to calls for greater controls but legislation was not immediate. (Lemmings, 1996, p345)

However, there was still a clear distinction between the religious and the civil processes – marriage at the church door being both simpler and less expensive. It was not until much later that it was assumed that all church-based weddings would include some form of genuine Christian ceremony. Probert (2009) and Outhwaite (1995) both indicate that for a considerable time, many marriages conducted by clergymen were often perfunctory. The 1949 Marriage Act does not specify anything in relation to the marriage ceremony itself, other than to refer to the Rites of the Church of England. Indeed, almost all of the marriage legislation, prior to more recent civil

marriage arrangements, focused entirely on the preliminaries, such as the calling of banns.⁶

The debate at the time of the Hardwicke Bill shows that it was by no means universally accepted that the church and state had compatible interests. Outhwaite (1995) reports that Dr Henry Stebbings, Chancellor of the diocese of Salisbury, wrote in defence of the prevailing ecclesiastical orthodoxy, that marriage was a divine institution, not a mere civil contract. (p102)

Church liturgies have prescribed Trinitarian references for a long time (in medieval times a blessing from a priest was considered a requirement although a Eucharist was optional - Coleman 2004, p165). Yet, as Probert (2009, p8) indicates, the involvement of the church was predominantly for legal and social reasons, not religious. For example, in the Book of Common Prayer Solemnization of Matrimony:

***Then shall the Priest speak unto the people.** Forasmuch as N and N have consented together in holy wedlock, and have witnessed the same before God and this company, and thereto have given and pledged their troth either to other, and have declared the same by giving and receiving of a ring, and by joining of hands; I pronounce that they be man and wife together, In the name of the Father, and of the Son, and of the Holy Ghost.*

The baggage left over from this historical period is the assumption that the church has a natural role in marrying couples, regardless of their faith background, including those of none. However, even in the very terminology used there is a tension: whilst many people still believe that the church marries people (an active and transitive process) the church itself has long held that it is the couple that do the marrying – the church is but a witness.⁷ The expression *Solemnization of Matrimony*, as used in the Book of Common Prayer, underlines that situation. Further, defects in the role played by the church (such as being conducted by a person not properly appointed so to do) do not in themselves invalidate the marriage, theologically.

From early middle ages, impediments to marriage were first developed by the church (Outhwaite, 1995, p3) with further controls to follow such as the extension of the need to call “*banns extended to all Christendom generally by Pope Innocent III (in 1215)*” (Outhwaite, 1995, p4). However, it was not until the Council of Florence (1431-1446) that the Catholic church moved to identifying marriage as a sacrament (Lehmkuhl, 1910; Coontz, 2006a; Outhwaite, 1995, p5). Even so, there are clear distinctions

between marriage and other sacraments – in particular whether or not the church or its priests play a necessary part in making the action effective (HOB, 1999, p4).

Waller concludes that the Reformation move away from seeing marriage as a sacrament was instrumental in allowing Protestant churches to accept divorce, which was 'merely' dissolving a contract of human construction. (2009, p 39 ff)

Although some churches, notably the Catholic church (for example, see Sretenovic (2009)), have difficulty with wholly civil marriages, the Church of England manages to recognise them if perhaps in an impaired way. After all, the Church of England policy on divorce and second marriages does not depend on whether the first marriage has taken place in church. For example, the General Synod Resolution in 2002 dealt with marriage after divorce. Since divorce is a civil matter (at least for the Church of England) it clearly encompasses cases where the first marriage was a civil ceremony. The Catholic church, as indicated by Sretenovic, recognises the legitimacy of civil marriages, but only in sorrow and with great reluctance. It would rather see such marriages as different in nature from those undertaken in the context of a sacrament and some will distinguish, as do Orthodox churches, between marriages which are licit and those which are valid. (Green, 2009 and Harakas, 2009) Some go further as in:

The Catholic Church recognises the marriage of a Catholic only when it takes place within a Catholic church. Occasionally, for good reason, permission will be given for the marriage to take place in a church which is not Catholic. Weddings in hotels or similar, and wedding packages abroad, are generally not valid (Northampton Diocese, 2010, p1).

However, the relationship between church and state with regard to marriage ceremonies varies from one country to another. In some cases, such as in France, a separate mandatory civil ceremony precedes an optional church ceremony, which itself does not confer legality.

The formation of marriage as a theological concept dates back to the first attempts by the church to regulate the matter, perhaps in the 12C⁸ (Outhwaite, 1995, p1-2) and much of what both church and state legislated for over the subsequent centuries related to the legality of marriage.

In parallel with the evolution of the regulatory role of the church there was a similar development in the understanding of the ways in which marriage may be described as a sacrament. Some theologians and some churches remain firmly of the view that marriage is a sacrament on a par with baptism and holy communion whilst others exclude the sacramental nature altogether – and there has been a range of expressions in between. We shall return to this aspect in a later section.

The regulation of who may marry began in a church context. The age at which marriage may first take place has changed over time: as recently as the sixteenth century, children as young as five could be married in wealthier families (Fass, 2003; Owston, 2009). The Hardwicke Act determined that both partners must be “*of Full Age*”, which subsequent legislation set at 14 for males and 12 for females – a disparity which was only removed in 1929 when the age was raised to 16 for both sexes (Age of Marriage Act 1929). In more recent times, the *de facto* age for church marriages has increased significantly (ONS, 2006) – perhaps partly driven by the perceived high cost of a wedding – to such an extent that this lower limit is barely a matter of debate!

However, there is no universal age limit across all cultures and legal jurisdictions (Mechiorre, 2004; Wikipedia, 2009) with some still as low as 12 under certain circumstances and some, such as China, setting it at 20. In some countries it has remained a contentious issue. (Blackburn & Bessell, 1997)

It is therefore almost impossible for the church now to claim that it has a particular role to play in this specific item of regulation – change has been driven more by social factors and altered perception of adulthood and it cannot be claimed that there is some inherent Christian theological perception that sets the age at a particular level.

However there is a problematic ethical consequence, made more acute by the recent rise in antipathy towards anyone labelled as a ‘paedophile’. Unfortunately, and often incorrectly, anyone who is convicted (sometimes merely alleged) of a legal offence with an under-age person is called a paedophile and suffers extensive social condemnation. (Sex with an under age person is now defined by the Sexual Offences Act (Parliament, 2003) as rape.) Activities covered by such legal restrictions are clearly widely considered immoral. A problem arises not just with the sexualisation of young children but with the fact that the age limits vary between legal codes. Hence,

something that will be considered a heinous crime and result in a person being ostracised from their society may be perfectly acceptable elsewhere. For a theology, or a church, that claims universality in its statements, this is a problem on a large scale and, indeed, in analogous situations is threatening serious schism.

As a consequence, it is important now to distinguish between the involvement of the church in the principle of marriage and the wedding ceremonies for particular individuals. It is quite possible and reasonable for the church to make statements about what marriage is, how the event should take place and how the couple should conduct themselves thereafter in terms which imply universality of relevance, whilst at the same time retreating from the regulatory role. Indeed, it is perhaps from this recognition that it may be possible to evolve a more relevant position with regard to the thorny issues of divorce, second marriage and same-sex ceremonies.

To put it another way, the church can claim the right to make statements about marriage because it cares about the lives of the people involved (including children and second partners) rather than making regulatory statements about what is or is not a marriage. Social change has, probably irrevocably, taken away the opportunity to be effective in the regulatory domain. Better then to focus on the caring role.

By the end of this investigation we shall seek to establish a firm basis on which to make a clearer distinction between matters properly in the theological domain and those which are not.

1.3 Overview of Thesis

The thesis begins with a literature review of taxonomies of marriage theology and also the contemporary pressures which the church faces, from which a set of questions will be identified.

To undertake the subsequent investigation it is necessary first to establish a new methodology – which I shall entitle Evidential Theology - which will allow us to use the evidence that is subsequently presented about the three application areas identified above.

The first area to be considered is that of learning disability. It will be necessary to develop the theology of learning disability (which in turn will require us to look in some depth at the phenomenon of learning disability) and it will be seen that this points to significant differences from work done on the theology of physical disability. In practical terms, the legal context for marriage is important including the implications of various aspects of Human Rights legislation. Having thus established the context, both theologically and legally, it is possible to give specific consideration to what is meant by marriage when one or both of the partners has a learning disability.

Attention is turned next to Post Menopausal Marriage. This is developed into a consideration of the implications for Christian theology of marriage where procreation is not a part of the relationship, whether by choice or not.

The third area of examination is the way in which the parenting role has changed and how this has profound implications for how the church, both in theory and in practice, is expected to respond. The historical assumption of a sequence from betrothal and marriage to intercourse and thus to child bearing is generally no longer the case and, at the very least, this has implications for the detail of marriage liturgy.

These three separate areas of examination will challenge some of the inherited theological assumptions about the nature of marriage. In response, Evidential Theology leads us to reject some of the aspects of marriage which traditionally have been seen to be essential. For example, the theological need for *contract* as a basis is rejected in favour of a *covenant*. In turn this establishes a reason to separate the functions of the state from those of the church in regard to marriage, both considered as the event (or change in status) as well as what we shall call support for *Enduring Relationships*. The result is to present a very different role for the church from that which has hitherto been the dominant expectation.

At this point, the discordance between some traditional formulations of Christian marriage and the evidence presented in earlier sections will be seen to be intractable using solely the methodology of Evidential Theology. A further new development – Uncertain Theology - will provide a means of handling the apparent incompatibilities.

Finally, having identified a need to adapt traditional formulations about Christian marriage in specific ways, various challenges to the Church will be set out in a way that is intended to give a greater focus and relevance in a context where the church has lost considerable ground of influence.

- 1 In general, the term *learning disability* is used to denote conditions of intellectual/mental impairment or dysfunction which arise either at birth, soon after, or in some instances, as a result of life events, such as road accidents. It is used without capitals as it refers to a general description, in comparison with specific conditions, such as Downs, which are capitalised. The term *learning difficulty* is avoided since there has been a tendency to use this to refer to syndromes which exist within people who are otherwise considered to fall within the 'normal' range of capability, such as Attention Deficit Disorder or Dyslexia.
- 2 In this thesis, the word *church* is generally used to indicate organised Christian religion, formed into ecclesiastical institutions. Where it is necessary to be specific about a particular institution then this will be indicated.
- 3 As far as possible, the language used is not gender-specific, unless the context dictates otherwise. However, in reference to the genetic species *homo sapiens*, terms such as *humanity* and *humankind* are used in preference to *mankind*. It may be that occasionally the use of Man (with a capital M) is used to reflect the historic linguistic practice which is clearly gender-inclusive.
- 4 The Catholic church is named thus, rather than the more divisive Roman Catholic church and its members are referred to as Catholics, accepting that this might raise issues for those from other churches who claim catholicity.
- 5 The Parliament : Hardwicke Act, 1754, is generally cited without the date or context.
- 6 The Marriage Ceremony (Prescribed Words) Act 1996 only set out words to be used in civil marriages, not religious ones.
- 7 This position makes the recent practice of performing a Blessing of Marriage for a subsequent marriage following a divorce all the more difficult to put on a rigorous basis.
- 8 Specific centuries are denoted thus: 20C.

2. Literature Review

The claim by churches and theologians to define and regulate marriage is long and well established. A number of writers (e.g. Coontz, 2005; Ruether, 2001) have reviewed the way in which marriage as a theological concept and as an historical or sociological phenomenon has developed over at least two millennia. Christian theology has evolved substantially (Coleman, 2004; Witte, 1997), passing through a number of distinct phases, each of which has had notable differences from its predecessor. These historical reviews make it difficult to consider marriage as a fixed theological concept which neither cannot nor should not change in response to the cultural context. Indeed, some of the aspects of marriage which today's traditionalists consider essential were themselves at one time innovations which were not readily accepted. For example, what was, in Old Testament times a polyandrous construct, is now almost unarguably monogamous. Later, the emergence of marriage in the eighteenth century as a romantic ideal – rather than an economic or political achievement – was a major shift. (Coontz, 2005, p145ff)

All of these writers demonstrate that the contemporary social context, now as much as in the past, presents a challenge to preceding theologies of marriage. We need to categorise both the different stages of historical development as well as the ways in which contemporary writers meet the challenge of reconciling traditional theologies with the current secular pressures for change.

2.1 *Taxonomies*

It is possible to categorise marriage theologies in two ways:

1. *Vertical (or Historical)*

In this taxonomy, we track the different phases of mainstream marriage theology in each stage of evolution. Although Coontz, Ruether and Coleman each have their own different perspectives, that by Ruether has the clearest historical correlation, albeit from a distinctly American viewpoint:

- Jewish and Graeco-Roman
- Early Christian
- Patristic and Medieval

- Reformation
- Victorian
- 1890-1940 (Impact of women in paid employment)
- 1940-1975 (Post-war return of women to domestic roles followed by various equality developments)
- Contemporary

Each phase in this taxonomy is defined primarily in terms of the broad social and political climate, indicating how theology has responded. Witte, on the other hand, is more concerned to track the contractual perspective as marriage has evolved from a sacramental concept to the more recent emphasis on the contractual nature.

Witte & Ellison (2005) also examine the way in which the older tradition of marriage as a covenant has become transformed into a specific, arguably very different, idea in the Covenant Marriage movement in North America.¹

A quite different perspective on this historical process is given by Isherwood in which she examines the way in which Christianity has viewed the body: *“any attempt to examine the Christian tradition . . . reveals a complex, constantly shifting relationship with the body which goes right back into the tips of Christianity's roots”* (Isherwood & Stuart, 1998, p52). It is not surprising that her trajectory closely parallels those of marriage which the other writers have traced.

What each of these writers has shown is that contemporary theologies treat ‘tradition’ variably, drawing on different aspects of this evolution. One person’s tradition is another’s history.

2. *Horizontal (or Contemporary)*

In this taxonomy we categorise different approaches to marriage theology in contemporary writing:

- Traditional²
- Adaptive³
- Radical⁴

Traditional theologies include those which seek to promote what they believe is a theology of marriage from an earlier age. However, it is important to recognise that what is considered to be 'traditional' can be drawn from any of the vertical categories. There is no more common cause amongst traditionalists than in the other two horizontal categories.

The Christian Right in north America, African Evangelicals and European Conservatives have all sought to promote one or other form of traditional marriage, especially in reaction to Radical writers⁵ who wish to expand the concept into entirely new contexts – notably same sex relationships. *Some issues in human sexuality* (HOB, 2003) attempts to hold together a wide spectrum of 'traditional' teachings in a way that lacks a coherent view of marriage itself. This is perhaps because it is more concerned to discern a common view on same-sex relationships which does not depend on a specific view of heterosexual marriage.

Lawler (1993, p95), in analysing the Catholic church's theology of marriage – and its relationship to annulment – has to recognise that, far from being consistent and simplistic, the church has had a complex response to changing situations, even if it has changed less willingly and more slowly than other denominations or secular society. Elsewhere, we summarise the statements which Pope Benedict XVI has consistently made in support of what is claimed to be a traditional view of marriage and sexuality.

Adaptive theologies seek to make the minimum evolutionary change from what each considers to be the traditional position, reacting most strongly to those aspects which jar the greatest with the contemporary social context.⁶

Thatcher, for example, has made an attempt to relate Christian marriage to contemporary concerns. In particular, he has promoted the concept of *betrothal* as a means of distinguishing between couples in a pre-marriage situation from those who have no intention of formalising their relationship in either a secular or religious ceremony. Cohabitation is examined further by Dormor (2004).

As we shall see in a later section, Thatcher remains broadly in the same camp as the 'traditionalists' when it comes to the essentials of a Christian marriage. We will show

that this approach is not especially successful in addressing the three specific issues which form the basis of this study.

Radical theologies redefine marriage, from a theological point of view, from first principles, as it were, not so much without reference to tradition as not being bound by it. The guiding principle is to reduce the concept to its essentials and then allow those essentials to develop in response to emerging needs.

This category contains those developments which seek to identify the absolute minimum essence from tradition in order to encompass new situations. Some of these are driven by a feminist imperative and have focused on the male agenda in most, if not all, previous evolutions of marriage theology. Others have a gender incentive as they seek to define relationships (including marriage as well as friendship) in terms that are equally applicable to both same-sex and mixed-sex partnerships (Stuart, 1995) or to reject a patriarchal framework (Isherwood, 2001).

Drucker (1998) challenges the argument that marriage is the best context for child-rearing by setting out the case for families built around a same sex partnership and concludes that, from a pragmatic point of view, such families are at least as successful in child rearing as mixed-sex parents.

Whilst most Radical theologies retain some role for the church in defining and controlling marriage, there are those who, in response to the restrictions on human behaviour which this has brought in the past, define a theology of human nature, including sexuality, independently from Church (Isherwood, 2000, p20ff) .

2.2 Contemporary Pressures

The advent of civil marriages and the licensing of a variety of premises for civil ceremonies has accelerated the reduction in the proportion of those marriages held in churches (ONS, 2008). Whilst there may be a number of reasons behind this trend, this thesis is based on a concern that the Christian theological approach is perceived not to be relevant to a range of people entering into particular relationships.

The range of relationships and family contexts has evolved and expanded well outside the limited situation envisaged in approved liturgies (Book of Common Prayer,

Common Worship etc). Some of these difficulties have been addressed from the point of view of a traditional theological concept of marriage (Lawler, 1993) but formal statements from the main churches tend to be infrequent and lag well behind contemporary behaviour (House of Bishops, 2003; Thomas, 1983, p11).

In any event, the past two decades have seen the churches focus on same-sex relationships (with divisive consequences) and have allowed the rest of the marriage agenda to lag behind. Once most churches (with the obvious exception of the Catholic church) had resolved their fundamental position on divorce, little further development in official statements has taken place.

Evidence is available from national statistical sources on such factors as the age at first marriage, first child in relation to marriage, proportion of children with parents formally married, numbers of serial child-bearing relationships and so on. Overall, as analysed by Coontz (2005 and others), the pattern is of a trend towards fewer child-bearing and child-rearing domestic contexts being characterised as enduring marriage followed by child-bearing. There is also a marked growth in the numbers of fertile women and couples making a conscious decision not to have children, whilst others go to any medical lengths to do so.

In order to provide a critical insight into some of the assumptions within the traditional framework, three situations have been selected where little or no evidence of work having been done has been found, especially as they are generally new phenomena. There is, of course, extensive literature about the phenomena themselves but not of the consequences for marriage theology.

One consequence of the changes in life expectancy, combined with the rise on serial marriages, is that a growing number of relationships are formed post-menopausal.⁷ The particular significance for marriage theology is that the specific relationships have no possibility of child bearing⁸ and therefore need to look elsewhere for their purpose, theological context and religious pastoral support.

However, these are not the only marriages where child bearing is not on the agenda and growing numbers (Berrington, 2004) choose to be deliberately childless (although this is not a new issue: Veevers, 1974; Ramu, 1985). The matter is becoming of

interest to the more conservative elements in US (for example) and some of the underlying reasons are discussed by McAllister (1998). Franke (2001) discusses, from a feminist point of view, the extent to which society views childbearing as normative.

The importance of the post-menopausal case, however, is that the element of choice – and hence moral integrity – is not present. It may be argued, as has Bishop Nazir-Ali (BBC, 2000), that choosing to be childless is contrary to a Christian view of marriage. Nonetheless, any comprehensive theology of marriage has at least to handle the case where childlessness exists but has not been chosen.

The statistics also record an apparent growth in deliberate single status - other than religious celibacy - and Wilson (2005) has made an attempt to reconcile this situation with other Christian approaches to relationships, including marriage.

At the same time the continuing trend to disregard the church as a focus for marriage has been documented (Kasriel & Goodacre, 2007). Clearly it is important to discriminate between the possibilities that either the church is failing to recognise the changes taking place in society or that the church needs to be even more assertive of what it believes to be its traditional position, embodying an unalterable insight into the will of God.

Whilst many churches have, as we shall see in a later chapter, gradually accommodated many changes, including contraception and divorce, the Catholic Church is notable by its determination to resist this evolution. Pope John Paul II's series of addresses *The Theology of the Body* (1979) extensively examined many traditional views on sexuality, but served largely to extend rather than change Catholic theology. (See Section 5.6 below for further consideration)

More recent statements from Pope Benedict XVI further reinforce the position. For example, he stated in a recent homily that families must be set in: “*the generous and indissoluble love of a man and a woman*” and “*men and women who contract marriage and form a family*” (2010b) is popularly interpreted as “*Pope Rails Against Same-Sex Marriage*” (Huffington, 2010). In a speech to the participants in a Congress on the Family he said: “*God’s gift to us of marriage and family life enables us to experience something of the infinite love that unites the three divine persons – Father, Son and Holy Spirit*” (2010a).

In Germany, he said:

However, the Church sees with concern the growing endeavour to eliminate the Christian concept of marriage and family from society's conscience. Marriage is manifested as a lasting union of love between a man and a woman, which also always aspires to the transmission of human life (2010c).

and also: *“the Church cannot approve legislative initiatives that entail a re-evaluation of alternative models to married and family life. They contribute to weakening the principles of natural law”* (2010c).

In 2008, Benedict XVI focussed his New Year message on *“the human family, a community of peace”*. He refers to: *“the natural family, as an intimate communion of life and love, based on marriage between a man and a woman”* (2008).

Pope Benedict XVI's statements have been summarised by Gallagher and Baker (2010) and they highlight the significance: *“Pope Benedict, no less than his predecessor John Paul II, views our contemporary marriage and family debate as core to understanding, indeed defining, our human dignity”* (p1). As I shall examine in later chapters, this continuing use of marriage as a paradigm for insights into the relationship between God and humanity lies at the heart of many difficulties in responding to cultural change.

However, the tensions which exist with other expressions of the Catholic position can be seen, for example, in an interview with Archbishop Nichols, in which he said: *“Fear is never a good motivation. The whole point of the Catholic journey is that it is a journey, and we try to hold together high ideals and understanding. That is the same for people who struggle in whatever way with their sexuality”* (Tweedie, 2010).

Nevertheless, the overwhelming official position of the Catholic church is one which makes no effective accommodation for a theology of marriage which incorporates current social trends in inter-personal sexual and parenting relationships, but seeks as robustly as possible to sustain what it sees as a traditional description of Christian marriage.

2.3 Learning Disability Theology

Theological thinking about disability has been dominated by Eiesland's 1994 book which broadly coincided with the secular shift from a medical to a social framework for thinking about disability. Specific aspects of disability have been considered, such as sight loss with the work by Hull (1997) based on his own personal experiences. In general, new thinking about Disability Theology has come from those who themselves experience some form of physical disability but who are able to articulate that experience in a way that illuminates a wider debate.

It is, on the other hand, not entirely surprising that almost all secular writing on learning disability comes from those who do not have such a condition. Specialists such as Craft (1994) have done much to progress the way in which services for people with a learning disability are provided.

There are now a number of effective ways of looking at physical disability from a theological perspective, but the same is not true of learning disability. In particular, the Social Model approach introduced by Oliver (1986) assumes that any difficulties encountered by people with a physical disability should be resolved by changes in the environment and in society..

Hauerwas (1986a) included learning disability within his theological considerations but his underlying approach now jars with the secular understanding of the relationship between people with a learning disability and the whole of society.

Pailin (1992) wrote from a personal experience, not of being a person with a learning disability, but from one who provided pastoral support to someone with a severe disability.

More recently, Swinton (2004a) has provided a contemporary framework, closely associated with developments in the practical support to people with a learning disability.

In general, however, there does not appear to be any significant work on how the theology of learning disability might differ from that about physical disability, despite the self-evident differences in the contexts. More particularly, work on marriage does

not appear to have been considered. It has yet to be established that marriage theology should adapt itself to the consequences of disability.

Hauerwas (e.g. 1986) and Pailin (1992) have considered learning disability primarily from the point of view of the non-disabled. That is, how – theologically – the non-disabled should view the existence of such disabilities. What is missing is a sense of how marriage, for example, can be theologically defined for people with a learning disability. There are also various pastoral and ethical issues which such marriages generate and which have not been accommodated – for example the ability of parents with a learning disability to nurture their children or their capacity to enter into legal contracts.

2.4 Contemporary Theological Questions

At present, then, we have a number of questions about marriage theology which appear either not to be covered by existing writings or where established ideas fail to meet the implications of these phenomena.

These questions include, but are not limited to:

*Q1. How far is child bearing and rearing a necessary part of a Christian marriage?*⁹

Q2. Are there limits to a presumed right to marry and found a family?^{10 11}

*Q3. What is the relationship between covenant and contract as the formal basis of marriage?*¹²

*Q4. Is there a right to children, in parallel with a duty to have children?*¹³

Q5. What is the consequence of either or both of a couple being married already having children, either together or from other relationships?

*Q6. The parenting task has expanded, especially in length of time. Does this have an effect on the traditional duty of child rearing?*¹⁴

Q7. How far can people with a learning disability participate fully in liturgies which appear to demand a particular level of mental capacity?

Q8. Can the church seek to set limits on who can enter into Christian marriage which are more tightly drawn than secular principles, especially rights legislation?

*Q9. What are the essential components of a marriage when child bearing is not possible?*¹⁵

*Q10. What are the implications of intentional childlessness?*¹⁶

*Q11. Outside of deliberate celibacy, what can we make of intentional single status?*¹⁷

*Q12. Is the concept of cohabitation as a precursor to marriage a satisfactory response to the growth of long-term non-married parenting relationships?*¹⁸

Summary

We have examined a number of surveys of marriage theology and their corresponding taxonomies. Despite the very substantial body of writing about marriage in general, a number of questions have been found which are currently either unanswered or poorly addressed in this literature.

In particular it is necessary to make a critical examination of traditional concepts such as marriage as a covenant, marriage as a paradigm for other theological constructs, the contractual and legal role of the church in marriage and the assumption that child bearing follows marriage, but first a methodology to be used in the analysis is needed.

- 1 Care must always be taken not to confuse the general use of covenant in describing marriage with that of Covenant Marriage, mostly in a North American context, which is largely a re-statement of a traditional, patriarchal model.
- 2 Traditional writers include Pope Benedict XVI, Pope Paul VI, Lawler, Levering, Jeffery, Thomas, Ward, Barton
- 3 Adaptive writers include: Thatcher, Williams, Dominican, Jordan, Vardy, Witte, Loughlin
- 4 Radical writers include: Stuart, Isherwood, , Sullivan, Ruether, Rogers, Heyward
- 5 Not to be confused with *Radical Orthodoxy*.
- 6 We have avoided the use of the term 'liberal' for this category on the grounds that it relates more to other aspects of theology and ecclesiology and not to the underlying driving force. In addition, both Liberal and Catholic – to use ecclesiological connotations – may seek to be Adaptive.
- 7 Although direct data is not easy to find, Population Trends 127, 2007 shows that the number of people marrying aged 55 or above rose from 4% in 1991 to 7% in 2005.
- 8 Although the thesis does not examine it, a similar situation arises for men who, perhaps as a result of prostate treatment, are unable to procreate.
- 9 Most apologists for Christian marriage make an assumption that child bearing is sine qua non (e.g. Nazir-Ali, 2000; Thomas, 1983) and it is clear that until the present, there has been little written that does not begin from that point. As a result, whilst there is a wealth of writing about the role of child rearing within Christian marriage, there is scant attention to the question of the theological legitimacy of marriage when, for whatever reason, there are no children.
- 10 There is extensive literature based on the developments in the second part of the twentieth century to establish codes of human rights and to enshrine them in law.
- 11 An unresolved discussion from 2005 precipitated by the marriage of Prince Charles to Camilla Parker-Bowles concerned the possibility that state legislation might have prevented the marriage. Since the marriage proceeded as the result of a legal interpretation which removed the obstacle, it was not necessary to address the human rights case (the right to marry limited by national laws).
- 12 Woods identifies the negative implications of creating a legalistic – contractual – basis for Christian marriage (which “betrays a legalistic view of God's moral demands” (2001, p396). However, with Thatcher, he attributes the problems to a patriarchal institution, rather than seeking to find radical alternatives such as that found in a covenant.

- 13 Considerable work has been done (e.g. Warnock, 2002) to establish a secular ethical basis for assisted conception, but controversy over techniques has clouded the theological debate. As a result, it does not appear that there has been a theological basis for a right to have children which goes beyond the right to try to have children. The difference lies in what rights exist when all 'natural' attempts at conception have failed.
- 14 Evidence of the UK social pattern is available from the Office of National Statistics. However, it does not appear that there has been any theological consideration of whether there are any implications as a result. In a contractual view of marriage, it is clearly important to understand the commitments of that contract and what might happen if those elements of the contract change materially.
- 15 Child rearing has long been seen to be part of the core definition what makes a Christian marriage. As we will identify later, increasing numbers of marriages involve older people with many women being post-menopausal. Not only does this present a pastoral issue (similar to that with single people) but also has wider theological implications and it is surprising that this problem does not seem to have been the focus of attention.
- 16 Typically, Christian marriage is assumed to imply child bearing (e.g. Nazir-Ali, 2000; Thomas, 1983). Stanton has summarised the phenomenon of voluntary childless people and the church's attitude towards it. Whilst she affirms, with Stuart, the legitimacy of this lifestyle "as another way of following Christ" (2001, p239) she ends by admitting that this is still work in progress.
- 17 One of the few writers to recognise the existence of deliberate singleness (not celibacy) is Wilson (2005). He has been particularly concerned to highlight the lack of pastoral care for people in such a situation. He concludes with four questions one of which includes a summary of the church's position as "Marriage good, everything else bad". What he does not do is to examine the implications for marriage theology if the pattern of singleness is accepted as one option for a Christian lifestyle.
- 18 Thatcher (2001) has been advocating a re-appraisal of betrothal for many years as a response to the extensive cohabitation that is practised even by those who subsequently wish to marry in church. Dormor (2004) also argues for a re-appraisal by the church. However, both of these writers make the assumption that cohabitation should only be advocated as part of a process that intentionally leads to marriage. They do not address the growing situation in which many cohabitees have no intention of entering into formal marriage – in some cases explicitly ruling out that option.

3. Methodology

In this chapter we will establish a methodology on which subsequent arguments are based, one in which we begin by expecting to find knowledge about God in and through the world around us. This will lead to a consideration of Natural Theology – what God has created is the best, if not the only, evidence of what we should use as the basis of the approach. Recognising that there are limitations to Natural Theology, we will develop the notion of Evidential Theology, namely that any ethical or theological principle must be consistent with nature as we observe it. This goes beyond post-modernism: just as the latter rejected the modernist view that evidence could prove positively certain ethical or theological principles, we now limit the apparent unprincipled post-modern approach by using evidence to at least negate some hypotheses. We will also compare Evidential Theology with other ideas which derive inspiration from scientific methods or discoveries.

The methodology used in this thesis combines scientific method with a particular understanding of incarnation. As will be outlined, scientific method is based on the verifiable collection of data about the world around us and its organisation into summarised forms which assist in an ability to predict how future behaviour will occur. Incarnation in a Christian context asserts that God – who exists outwith our universe and knowledge – nevertheless chooses to reveal himself through the world. Our knowledge of God is entirely limited by the way in which we perceive that world. Even revelation in scripture is through the physical reality of its authors.

In addition, I will make use of particular scientific ideas, such as those drawn from sub atomic physics, to generate new ways of looking at theological issues, new paradigms for the manner of 'Doing God'. Too often, theology – and more especially statements made by church leaders – are founded on theological philosophical principles which have been unchanged by parallel developments in scientific philosophy. That is to say, the essential building blocks of how a theological argument is constructed too frequently rely only on Aristotelian or Newtonian ways of thinking. Just as those ways failed to solve the presenting issues of sub atomic physics around the outset of the 20C, so too have they failed to resolve theological and ethical problems which

continue to present themselves in a world that seeks global solutions which are identical in every place, time and culture.¹

Natural Theology is neither new nor specific. Recent work by McGrath (2008) not only sets out its long history but also reinvigorates it with new insights. We do not have space here to review all that McGrath has said – especially as we will shortly establish a distinctive alternative version of the use of nature – but it will have to suffice to quote briefly.

McGrath identifies five themes:

1. The idea of a transcendent God who chooses to self-disclose in history and nature
2. The belief that there is an analogous relationship between God and nature, grounded in the created character of the natural order
3. The principle that humanity is created in the image of God, and thus endowed with some capacity to discern traces of God within or through nature
4. The concept of the “economy of salvation” which situates reflection on nature within a framework based on its “fall” and future restoration
5. The doctrine of the incarnation, which holds that God entered into the natural order in Christ, in order to transform and redeem it.

(2008, p178)

He reinforces his view of nature as a means of discerning God:

*While needing to be seen in a certain way, the natural world has an intrinsic ability to disclose the things of God. The parables of Jesus allow us to see God **through** nature; the 'I am' sayings suggest we are to find God **within** nature.*
(2008, p 132).

This, however, neglects that not all of the 'I am' sayings reference truly natural comparators. For example 'I am the true vine' (John 15:1) refers not to a naturally occurring plant but to a cultivated development. Equally, 'I am the Good Shepherd' (John 10:11, 14) : the shepherd is symbolic of how humans adapt what occurs naturally to their own needs. We should, therefore, expect to find God, and to relate to God, through human-made constructs as much as those that we consider, perhaps artificially, as natural. This gives us a much larger canvas than Natural Theology.

McGrath's *Natural Theology* is primarily about using the created world to gain greater knowledge about God *per se*, whilst in the context of this thesis we especially want to use the same evidence to discern what God expects of humanity and the way individuals behave towards each other. In *Science and Religion* (2010) he develops his theme primarily into the realm of showing the compatibility between the quite distinct methodologies of science and religion – a rebuttal of the arguments presented by Dawkins *et al.*

However, I do not (as some might) assert that incarnation is complete and therefore, that whilst our knowledge about God is incomplete, all that there is to know is already there, waiting to be accepted. Instead, a position is adopted that incarnation is a continuing process, that God is not limited by time or by a particular point in time. As argued by Robinson: “*Could it have been God’s plan all along to reveal more and more of himself and his will as the church grew and matured?*” (2008) Since the manner in which God reveals himself² is in and through the created world, especially through humanity in all its forms, we recognise that the incarnation is itself on-going. Not only is there more to discover about the world around us through the application of thought, investigation and experimentation, but there is ever more to be discovered.

Stuart also writes:

One problem that many of us have with the Trinity is that it seems to portray God as self-sufficient; we can be left feeling like the wallflowers at the party. This is why it is essential to remember the ancient Christian tradition that we are the body of Christ on earth; we are part of God the incarnate; we are taken up in the dance of passion; we are part of the Trinity (1995, p245).

So, our ability to discern God and his will for us is dependent on our willingness to look critically at what is going on around us and be prepared to incorporate this evidence into our theology. “*Could it be that even the Bible is too small a box in which to enclose God? ... God seems infinitely more engaged with humankind that that ... continually attempting to lead us closer and closer to God’s will*” (Robinson, 2008). This search for God’s will by carefully examining the modern universe I shall call *Evidential Theology*, indicating that a primary responsibility is to seek understanding through an unending observation of the incarnation.

This implies that we are under an enduring obligation to revise our theology in the light of what we discover of the revelation of God especially the incarnation in humankind. It further follows that some theological assertions may have had validity

in a particular context, based on the knowledge available at that time, but as our knowledge extends previous understandings, so also must our theology. An example is Badham who tends towards the view that *“precisely in order for the continuity of the Church’s life to be preserved it must change the expression of its beliefs”* (1998, pp 15-25). It is equally important to accept that anything which we assert today will evolve in the future and that we must not cling to particular past views which are inconsistent with the evidence we collect from the world around us, including our knowledge of how human beings are constructed, behave and interact.

There are strong resonances with the manifesto statement made by Isherwood and Stuart:

1. *Incarnation, by which we mean that which we call divine, is redeemingly present in and between people and nature . . .*
2. *Sin and redemption are not just metaphysical realities but lived . . . in the real lives of people*
3. *[This] experience is central in the creation of theology [and is] sited in the body which includes the mind* (1998, p10)

Whilst, in context, they are speaking specifically about the experiences of women, the statement has wider applicability, not least in the three case study areas we shall examine later.

Whilst Hauerwas asserts that we know God through both his son, in Scripture and in his body, the church, (Coffey, 2009, p9) he has been deeply sceptical of a tendency to allow contemporary beliefs to be moulded by concurrent secular understandings. The knowledge of God, known as set out above, is more fixed by traditional interpretations of scripture than by developments in scientific knowledge. He suggests that our fixed understanding of God should cause us to modify how we see the world.

There are two distinct situations: on the one hand it may be asserted that it is the task of the church to correct mistakes which were made in the writing of scripture (Badham, writing about Coleridge) but on the other hand the process may be seen as one of gradual evolution and revelation. Badham (1998) asserts that the progressive character of revelation is almost universally accepted.

Such revelation is not guaranteed to be universally unidirectional. Since revelation is received and distributed by humans, it is inevitable that the process includes blind

alleys. Even without such evolutionary ‘mistakes’, a progressive, on-going and yet incomplete revelation and incarnation implies that there are theological principles yet to be established. The fact that some of those will bring into question any simplification (even to the point of error) of what we have established so far does not in itself imply that what goes before should be seen as ‘wrong’. It means that we have only been granted partial revelation.

As well as deriving evidence from the objective observation of the world about us we can consider the growing body of material in ‘rights language’. Various declarations – some relating to all humanity, some relating to particular groups – form widely accepted norms for moral behaviour, individual and collective. Whilst there is no guarantee that such material has its basis in principles which are consistent with Christian theology³ (and at various times and contexts quite clearly has not) it is important to be especially certain before enunciating anything which diverges from this base. Whilst this approach is, in principle, different from liberation methodology, it has close relationships and may at times seek the same, or similar, goals.

It is also distinctive about Christian theology that this revelation is particularly focused in the historical person of Jesus. Our knowledge of that person is initially and, for some, wholly, derived from the scriptural records. Whilst it might be argued that God deliberately chose to give humanity a specific perception through that historical record, the methodology of this thesis, whilst asserting the primacy of scripture, also asserts that it is the person of Christ that lies behind and beyond that written record which we need to elicit in order to formulate reliable statements about matters of faith and action. Specifically, we need to ask not “What would Jesus – in his historical context – have done about x?” but, instead, “What does the person of Christ as we have come to understand that personality, now direct us to do about x?”

Thatcher, setting out his methodology for developing his theology of families, begins with:

First, God’s revelation in Christ must be given priority over God’s revelation in scripture. Second, as a matter of theological method, Christology precedes ethics and shapes them (2007, pp 44-45).

Harries characterises Jesus, from an ethical teaching perspective, as having four elements:

- radical inwardness: what we specify for others must have an integrity with our own behaviour
- inclusive: ethical principles must have universal application
- unlimited: there is no limit on what may be required of us
- service: what we do for others is determined solely on the basis of their need, not what we get in return (2008, pp 61-62)

However, as I have already asserted, our knowledge and understanding of God is progressive, requiring us to evaluate the evidence from all sources. In this regard, the methodology has links with Radical Orthodoxy. Long writes: *“Radical Orthodoxy cannot develop theology solely by professing basic Christian dogma; it develops theological doctrine always at the same time that it discusses politics, economics and ethics”* (2003, p131). However, Radical Orthodoxy seeks to return to a specific traditional pre-Scotus theology which, at best, treats evidence as second class material.

An important distinction between Evidential Theology and Natural Theology lies in the treatment of the evidence, alongside traditions and scripture. Evidential Theology gives unavoidable weight to the evidence insofar as it is incontrovertible. As in past controversies, if it is certain that the earth is round, it does not matter how many verses from scripture are advanced to the contrary, it will make no difference to the shape of the earth.

But this is not simply scientific method because, as with Long (2003), Evidential Theology also recognises that the experience of God – especially in our Christological understanding – affects our ethical and moral dimension – although this direction is not particularly explored by McGrath (2009, Lecture 2, p11ff) who is more attracted to its explanatory ability. (See also Polkinghorne, 2000)

The approach adopted by people such as Dawkins is a radical atheism which asserts that no truth exists that cannot be demonstrated by scientific method. Such truths are absolute and independent of the observer. As a result, concepts such as ‘God’ are rejected as being incapable of such ‘proof’. In any event, this provides little or no basis for determining what is right or wrong in human behaviour.

On the other hand, Postmodernists assert the pre-eminence of the person and that there is no such thing as an absolute truth in the sense that scientists claim.⁴ Everything is dependent on the position (culture, philosophy, experience) of the observer. Different observers may thus validly reach different conclusions and both have a partial claim on truth.

In sub-atomic physics in the early 20C, a similar realisation struck a hard knock to the Newtonian view that we had a complete model of how all matter operates⁵ and it would only be a question of time to apply these principles in order to predict universal behaviour entirely. The advent of such concepts as the Heisenberg Uncertainty Principle established that there are necessary limits on what we can and cannot establish and we shall return to this problem later when we introduce the concept of Uncertain Theology.

It may be argued that Evidential Theology is essentially a Liberal Modernist approach, reverting back to the notion that evidence can establish facts independently of the observer and having universal validity. However, the aim is very different: namely that with Popper (1959), we can only use scientific method to establish a negative. In this sense it remains a useful process since we can identify which theological proposals could only be accepted if we reject the observations of our own eyes.

This does not go quite as far as Nelson when he introduces his notion of *correlation*: “*The middle course between these two options [deontological and libertarian] is one of correlation -- not a correlation by deduction from a divine edict but a correlation between religious teaching and the empirical data*” (Nelson, 1988, p388).⁶ This 'correlation' is similar to O'Murchu's use of quantum physics to establish theological methods (2004).

The use of evidence is intended to prevent us from straying into the unacceptable and is concerned that the postmodern approach has given credibility to unscientific assertions which place belief above scientific method:

1. *Homeopathy*: The spat between the *Bad Science* writer Goldacre and the proponents of homeopathy sets his analysis that there has been no evidence of its efficacy that

meets the same criteria as other medication against the strongly held belief that homeopathy 'works', despite the lack of controlled tests to support this.

2. *Creationism and Intelligent Design*: The desire by certain Christian groups to assert the literal reading of the Bible is set against scientific descriptions of evolution with both sides reaching very different conclusions about the age of the universe. The recent advancement of Intelligent Design is, by its proponents, intended to set a constraint on what science may conclude: if a scientific theory clashes with Creationism then, by definition, it must be wrong.
3. *Same-sex relationships and HIV/AIDS*: evidence of the existence of same-sex relationships, both historically in humans and in animals is rejected by those who wish to promote a view that scripture unambiguously rejects such behaviour as absolutely sinful. Further, some go on to reject work by biochemists and medical scientists in developing medical treatments for HIV/AIDS and the availability of barrier contraceptives to diminish its transmission.

The methodology used here challenges cultural trends which make the above examples possible and which postmodernism seeks to codify and to justify.

On the one hand, it is important to recognise that science cannot address many issues, especially those of theology. As such, it is not a 'way of life' nor can it ever ultimately justify ethical or theological assertions.

On the other hand, scientific observation can, and must, establish constraints within which theological and ethical thinking take place. Unlike postmodernist (in the caricature above) permission to pursue the pre-eminence of any belief over objective observation, the methodology of this thesis begins with the objective and works towards the subjective. However, the subjective must be subordinate to the objective – and that objectivity is a valid goal, even if at any point in time we are only in possession of part of it.

In this sense we stand with Galileo in saying, "But it moves", when faced with the determination of the church not to alter its views on an earth-centred universe despite the observations of Galileo and other astronomers. More precisely, as Lakeland cites from Brecht, "*The aim of science is not to open the door to everlasting wisdom, but to set a limit on everlasting error*" (1997, p 36).

In each of the three areas of marriage that we shall consider, we start by establishing a factual base on which to build a better theological understanding that remains at all times constrained, but not determined, by the evidence.

For example, if it is evidenced that some people with a learning disability are able to establish a marriage that has all the hallmarks of a Christian marriage, then it is unrealistic to assert a theology which states that all people with a learning disability cannot make a valid marriage – as has been asserted in the past.

On the other hand, no amount of evidence about marriages collectively can – in the hindsight of post-modern critiques – establish a universal paradigm for the relationship. This will present problems when confronting the use of human experience, such as that of marriage, as a paradigm for the relationship between God and humanity.

Yet we shall retain at least one element of modernism, namely that even though we do not – maybe even cannot – know universal truths about God, that does not prevent their existence nor devalue the innate tendency of humanity to search for them. This is not the “late modernism” of Lakeland (1997, p 17). Instead, it seeks to avoid the danger that Lakeland identifies, that post-modern ethics can be driven too much by an emotional subjectivity, rather than a recognition that all experiences have to be accommodated (1997, p28). Instead, we adopt the principle that each new piece of evidence – even if it is ‘merely’ another subjective experience – must somehow be incorporated into the generality. Any existing generalisation has to be expanded, possibly even rejected, if it is in conflict with the evidence. Without this approach it becomes increasingly difficult to establish validity for ethical guidance or direction; life itself is too complex always to operate from first principles. Generalisations provide a short cut to other people’s learnt experiences and thus prevent us from falling prone to the disasters that underpinned that accumulated wisdom. Sadly, history suggests that the alternative to over-adherence to tradition is not freedom but prejudice. We need simultaneously to avoid being prevented from making new and valid developments just because they appear to challenge previous advice or tradition.

In many ways this is a greater challenge for those who gather the evidence – whether or not they call themselves scientists – and not, as Lakeland suggests a *'more modest*

goal'. Rather, "Science does not tell us what we must think, but it does tell us what we may not think" (1997, p37). It is a start to bridging the gulf which the late 20C allowed to develop between 'science' and 'religion' in a way that previous generations would not have recognised.

There is, in a way, a fallacy in the phrase 'the ethics of science': the collection of evidence is, in itself, unbounded by ethical constraints (other than are found in the manner of collecting the evidence). The problems lie in engineering: how we apply that knowledge. It is not so much the having of knowledge that is the problem, rather what we do with that knowledge. In this sense, we need to re-interpret the Genesis account of The Fall, recognising that it is more about obedience to God than about the acquisition of knowledge.

Lakeland writes:

Habermas and others have argued that postmodern culture is a product of neoconservatism, which rejects modernity's celebration of autonomy and its championing of human and civil rights. Preferring a vapid amorality, it promotes materialism, consumerism, and social and political indifference, often dressed up with the rhetoric of 'traditional values' (2007, p63).

If this is indeed an accurate assessment (broadly shared by Radical Orthodoxy) – others might reject such a negative view - then I too want to maintain a distance from this version of post-modernism.

Whilst the formulation of rights, especially in legal codes, cannot of itself provide the basis for a theological morality, there is considerable value in using various expressions as the basis of evidence that certain lines of thinking are no longer viable.⁷ Whilst they might be criticised as having a too heavy dependence on the validity of the concept of Natural Law⁸, they remain an important part of our culture and cannot be ignored. In the same way as the so-called laws of nature are an aid to discerning what theological arguments run counter to the evidence, so also Rights codes can act in a similar way by indicating principles which would require very special argument to be dispensed with inside a theologically-based code of ethical behaviour.

There is assumed to be merit in both the view:

While Christianity can utilise the insights of social science, it accommodates itself to the paradigms of secular science at its peril. Christianity does not have to conform itself to the assumptions of the world: rather, the world has to conform to the vision of the Christian tradition (Lakeland, 1997, p69).

as well as its converse, namely that Christianity has to be big enough to accept that other religions, as well as the secular world, are capable of gaining valid insights into moral principles. In this way we adopt one of Lakeland's conclusions, "*The task of understanding or interpreting society, if attempted at all, must be conducted through piecemeal, tactical, pragmatic and tentative means*" (1997, p88).

In other words, we cannot confine ourselves to traditional methodologies nor can we expect to be able to progress uniformly and consistently but must be willing to draw on a variety of evidence, accepting the evidence itself, and not be deflected simply on the grounds of its origin. Equally, it may well be that some conclusions may have localised validity. The continuing debate in the Anglican Communion about sexuality is driven – to destruction – by a desire to establish universal tenets rather than being willing to consider differing solutions in differing cultures.

It is important, therefore, to recognise that much of what is considered in this thesis is evidence from contemporary Britain. This does not devalue the efforts to establish broader truths, but serves as a cautionary reminder not to draw paradigms that depend unduly on that context as the basis for generalisations.

Specifically, as we shall see, the notion of marriage has changed fundamentally over time yet there remain attempts to use it as an unchanging paradigm of the relationship between God and humanity (Gomez 2001). We need to accommodate the fact that not only can the notion of marriage change over time, but also that it can vary over space.

The distinctiveness of this methodology can be seen in comparisons with alternatives. For example, Gomez looks directly at the specific issue of the public blessing of same-sex unions, an issue which is sufficiently close to the considerations of marriage in this thesis to justify the comparison.

There are several important differences between Gomez's methodology and Evidential Theology, including:

1. There is no recognition of the postmodern critique of a universal truth – or at least the inability of humanity confined by finite comprehension to be able to discern

that which is defined as infinite. The Gomez assumes that there is a single truth and is ambivalent about alternative biblical hermeneutics.

2. The argument is unashamedly pragmatic and institutional. It is driven by a desire to conserve the church as a coherent institution as well as be affected by independent pastoral needs which are determined by the nature of the world as it is found by practitioners. In this respect it echoes the Radical Orthodoxy project
3. Gomez adopts the position that incarnation was a fixed process, set in the past and documented by Scripture. In comparison, Evidential Theology is predicated on incarnation not being constrained into the time dimension
4. The response to reality is relative: it seeks to deal with pastoral issues as they arise rather than to search for an overall framework within which a broad range of issues can be resolved. This is similar to Situational Ethics and prefers to allow *special cases* to resolve problems rather than tackle the shortcomings of the general case.
5. Gomez limits his sources to interpreted scripture and finds no room for evidence from the world around us to act as a corrective in resolving hermeneutical conflicts.
6. As a consequence, Gomez espouses a clear belief that the whole of truth can be discerned by a combination of scripture and tradition – in the shape of institutional dictats. There is no role for other evidence.

Whilst this methodology may well have served the purposes of the report (Gomez, 2001) in seeking to demonstrate that the blessing of same-sex unions should not be permitted, it is clearly defective when it comes to looking at issues which are entirely new in the experience of humanity. Since the aim of this thesis is exactly that – to take questions relating to marriage which are a product of recent sociological and technological developments hitherto unknown - a necessarily different approach is required.

The parallels and differences can perhaps be seen by taking the following question from Gomez: “*How do we understand the rise of homosexual identity and community in certain cultures?*” and substituting ‘learning disability’ for homosexual, or even deaf church (churches specifically for deaf people). These latter variations do not carry with them the same baggage and therefore are more readily debated without recourse to familiar historical formulae. This is similar to the way in which a change in the reported

incidence of a particular phenomenon is erroneously used to suggest that there has been an actual change of incidence. One of the aims of this thesis is to use these new situations to reach conclusions that could not readily be reached by existing routes.

The use of scientific evidence is also highlighted:

the Church must draw with discernment on the available scientific research while taking care to avoid letting its actions and teaching be shaped by as yet tentative findings on the origins and nature of 'sexual orientation'. Even when greater clarity is reached through further scientific enquiry, however, the Church must avoid drawing false conclusions from science. Although certain findings may lead to greater understanding and different pastoral responses, scientific findings in and of themselves cannot determine the Church's moral teaching or public liturgies (Gomez, 2001, p15).

The principal problem here lies in the assumption that some scientific findings may not be tentative; that is, we can categorise scientific enquiry into that which is 'work in progress' and that which is complete. Although there are some findings which it would be hard to challenge (denying the existence of gravity does not stop an apple falling to the ground!) no science is ever complete.

Equally, it is hard to accept the hypothesis embedded in the above extract that some Church teaching could be contrary to scientific findings. Indeed, an incarnational approach sets a high premium on discerning the nature of God's love through the evidence of what he has created and still is creating. Something which exists in nature has a strong claim to being part of that incarnational lens.

3.1 The Use of Nature

Debates about sexuality, including the purpose of marriage, frequently resort to claims that certain behaviours are, or are not, natural.

Almost all societies set a legal minimum age for sexual intercourse between men and women. In many contexts it seems likely that the strongest appeal in setting such a limit is to 'what is natural'. In particular in our generation there is a widespread revulsion against paedophiles and a heightened sensitivity resulting from often intense media pressure.

However, this minimum age has changed over time (Mechiorre, 2004; Fass, 2003) and is no longer linked to a physical event in either the life of a male or female person. Whilst in past generations a direct link with puberty was strong, there is now a sense of considering when a person becomes a mature adult. Below this age they are *vulnerable, immature and in need of protection*. But as soon as the threshold of age has been crossed then no legal barrier is established. When the age was set by a verifiable event, such as puberty, the barrier was clear, but in modern society there is no such clarity.

Of course, legal limits are, by their nature, crude and approximate, always set in as precise terms as it is possible. This becomes especially important when criminal prosecutions can result. But the notion that on one day, sexual activity is illegal, yet just a moment later, all suddenly changes, is clearly nonsense. People grow and mature gradually.

The debate is clouded by emotional reaction and prejudice as, for example, can be seen in the adverse popular reaction to a suggestion from a senior British police officer that there should be changes in the way in which heterosexual behaviour, where one or other partner is under age, should be prosecuted (Gillan, 2006). Under-age sexual offending of a consensual nature is often confused with paedophilia.

Those who appeal to nature for such principles have to come to terms with the fact that the human body, like much of the animal world, is ready for procreation at puberty. For many generations, but not for all of history, it has been considered that this event in itself is not sufficient to make procreation allowable and so marriage laws have been set which are not solely based on the so-called laws of nature.

It is also important to recognise that, at the time when scripture was recorded, most societies expected procreation to follow soon after puberty and it is necessary to reflect this in any use of proof texts to guide contemporary social mores.

It soon becomes clear that we have to be careful in the appeal to the natural world for positive evidence about what is morally right or wrong for humans, set in a specific social context, any more than we can to prove the existence of God.

We have already noted the problems thrown up by post-modern critiques of modernist scientific arguments, not least because the use of scientific method in theological arguments involves a category error, and vice versa. However, recourse to 'what is natural' still remains a temptation that Evidential Theology must resist.

For example, the debate about sexuality, especially same-sex relationships, often appeals to the law of nature. In this context, 'same-sex behaviour is against the laws of nature' has some initial attraction – 'It is not natural'. However, it begins to be less comforting when we realise that any generalisation can only be claimed as a law of nature if it is fully inclusive – it accommodates all the observations in nature. Hence, for a scientist, anything that actually occurs has to be described by a law of nature and, in that sense at least, can only be described as natural.

Yet even this is not enough as nature is subject to change – evolution. Fagan says, *"The practical conclusion from all this is that human nature does indeed change, and our perception of what counts as 'natural' likewise changes"* (2003, p91).

When we come to apply this to marriage, we should also remember, *"This means that it is not possible to make any single historical or cultural form of marriage absolute as the norm for all"* (Fagan, 2003, p91).

The confusion between nature (ontology) and purpose (teleology) has been a feature that has arisen in debates about marriage for some considerable time. Indeed, the use of marriage as a paradigm serves only to compound the difficulties and we will return to this in a later chapter.

3.2 Tradition and Reason

As we all grow up we consolidate our experience into simplified expressions, many of which we learn from previous generations. Such received wisdom helps us 'stand on the shoulders of those who have gone before us' and means that we do not have to re-invent that which is already well-known. As we become more analytical in our approach to the world around us we learn about *physical laws* which describe the way it seems that the world works. Sometimes these 'laws' are found to be faulty and have to be revised.

In the world of physics, progress is usually in a forward direction, with new discoveries refining those that were previously the last word. Sometimes even with the refinements the older, simpler, descriptions will suffice for practical purposes. Most of us do not need to know that Newtonian Mechanics are not exact and that, if we were to operate at the sub atomic level then we would see things very differently. However, it does not take a child very long to discover that a breakable cup always falls to the floor when let go. Adults call that gravity – toddlers just find it fascinating!

Indeed, if we were required to work with the latest refinements all the time, two things would result: Firstly, it would take so long to learn them that there would be little time left in life to do much else. Approximations save time. Secondly, the degree of brain power needed to survive would mean that most of us would have to exist in a bemused torpor for our whole lifetime! Again, approximations help those who do not need to use the more complex rules. The danger in the post-modern critique is that individuals feel compelled, rather than permitted, to devise their own principles to the extent that, in the end, the task collapses and people retreat too far into the traditions which they inherited, or alternatively, into self-interested prejudice. Principles need only be sufficiently accurate for the immediate purpose.

Tradition is one form in which we learn from our forebears. Ways of doing things – whether social behaviour, medical practice or religious ritual – become codified and passed from one generation to the next as what we call tradition. In this sense, tradition is part of the tapestry of things which we learn early in life that help us make sense of the world around us and to operate within it in a time-efficient manner.

On the other hand, so much of what we learn from the past is modified and evolved in the light of further experience. Scientific laws stay in one place for ever shorter periods of time. The result of this immense amount of activity is that we are always learning something new. Of course, the down side is that we sometimes learn that what we thought was true we now know to be false, or at least defective. New theories bring with them better understanding and the ability to do things that we could not do before. However, what is important is that *technology* – what we can do – is overwhelmingly driven by *science* – what we know. The more we know the more we can do.

On the other hand, there are plenty of examples of discoveries that were driven by belief rather than reason. Many of the world explorers of previous centuries *believed* that there were places to be found even if their contemporaries *thought* that their knowledge indicated otherwise. Equally, there are many medical treatments that were found by accident – the discovery of penicillin is said to be one of the greatest accidents of the 20C.

However, what reason does is to provide the means to recognise when there is a dissonance between tradition and experience. This is the process of discovery.

In the world of moral laws similar progress is made. Few today would wish, with Hammurabi, that “*if any one bring an accusation of any crime before the elders, and does not prove what he has charged, he shall, if it be a capital offence charged, be put to death*” (King, 1910, p29). Old Testament times adopted Codes of Behaviour parts of which, such as child sacrifice and polygamy, would be quite unacceptable today.

Most world religions are founded on a base of tradition, often in the form of written documents dating back many centuries. Whilst they vary in the way in which such traditions are viewed, it is clear that they can be a substantial force, controlling contemporary social behaviour.

Christians are divided on the role of tradition, including the greatest part of that tradition, the Bible itself. On the one hand there are those who see the bible as literal truth. Whilst this is an extreme position there are many who adhere to it. Perhaps more frequently there is a *minimal damage* position which would like to think that the literal and whole truth have been revealed in the bible but are forced by circumstance and experience to diverge from that position. Instead, they seek to accept as few amendments as possible – preferring to hold to biblical statements which, to others, seem at variance from their experience.

Alternatively we can take the view that principles set out either in the bible at varying historical times, or by the church in subsequent generations, were perhaps the best approximations known at the time to what is best for humankind and what it is that God wants us to do. In other words, “*Because it is literally the word of God does not mean that I have to read it literally*”.

Humankind can never know wholly and without error, the mind of God. It is unsurprising, therefore, that our collective view of what God expects from us develops over time and in the light of contemporary culture and scientific knowledge. There is nothing either new or wrong with this: it has been happening for at least as long as we have recorded history. In the context of Evidential Theology, this can be seen as another manifestation of the on-going process of incarnation.

However, it will become important later in our examination of marriage theology to make careful distinction between purpose and nature. The two questions: “What is marriage?” and “What is marriage *for*?” are easily compounded and the fundamental difference overlooked resulting in a dissonance between what we inherit as a theology of the purpose of marriage and what we can measure in terms of what marriage actually is and how it is practised in society.

3.3 *Science Related Theologies*

Earlier, we set out in some detail how Evidential Theology avoids some of the problems which have been seen in Natural Theology. In particular, it has been important to emphasise how the evidence is used as a corrective to tradition rather than a means of demonstrating specific conclusions about the nature and intentions of God. Theology and Science currently interact in two distinct ways:

- theological analysis of what science is saying
- using scientific developments as inspiration for theological understanding

The first of these encompasses those who, stimulated by atheistic analyses such as by Dawkins, examine whether or not the discoveries of science impact on how we understand God and God's interaction with our universe. The biological perspective has, since Darwin, challenged literal readings of scripture and led some to develop *Intelligent Design* as a means of spanning both the principle of creation (God as the initiator and designer of the universe) and that of evolution. Rather than, as the most literal readers, insisting that God created everything as it is, Intelligent Design⁹ asserts that God created the universe with a set of rules that made the emergence of humanity a necessary consequence. *Irreducible Complexity* is adduced as evidence that biological structures are too complex to have evolved naturally and must therefore have been designed.

Cosmology inevitably presents a challenge: firstly because it seeks to understand the processes by which the universe began and subsequently evolved into that which we experience today and secondly because it is, inevitably, largely theoretical, even speculative. This provides grounds for those who are uncomfortable about the theological consequences to seek refuge in a '*It's only another unprovable theory*' to avoid having to confront the evidence. As yet, the Large Hadron Collider experiment has not provided evidence one way or the other for such as the Higgs Boson or even dimensions other than those of three dimensional space and time (LHC, 2010). Recently, Hawking has suggested the existence of universes inaccessible from our own (Hawking & Mlodinow, 2010). Keller (2008) seeks to address the question *Why?* Rather than *How?* - properly avoiding a category error that confuses the separate roles of science and theology, especially in such a confrontational matter. In challenging the orthodoxy of *creatio ex nihilo*, she says, "*A chaosmic Christ would represent the flow of a word that was always materialised, more and less and endlessly, a flow that unblocks the hope of an incarnation, in which all flesh takes part. . . . It takes place within the shared, spatiotemporal body of all creatures*" (2008, p19).

Several theologies have emerged which take their inspiration from the development of ideas in the scientific domain and translate the concepts as analogies for theological discourse.

Process Theology, developed from original ideas by Whitehead and Hartshorne, places our individual and collective experiences centre stage and emphasises that God contains and interacts with the world, whilst not being limited by our universe. "*Original thinking in science and philosophy, original art in all its forms, original styles of life and social organisations, all witness to the peculiarly effective presence of Christ*" (Cobb & Griffin, 1976, p101). And then: "*But the history of (these) is the history of repeated created transformations*" so that: "*Christ is in no wise limited to the sphere of the 'religious'*". God contains the universe but is not limited to or by it: the term *panentheism* was coined to distinguish this position from *pantheism* in which God is only to be found in the world about us.

Evidential Theology shares with Process Theology an incarnational base and that we must use the totality of the evidence that we gather from the world about us as evidence of God interacting with humanity. However, the limited ambition of

Evidential Theology allows us to use that evidence more objectively and less experientially since it is primarily concerned with acting as a corrective to ideas generated from outside itself. Mesle points out that, *“any vision of divinity or even of nature that humans create must be understood as a model or a myth”* (1993, p5). This process is shared with scientific method which generally establishes a model based on evidence which it then seeks to prove by further observations. *“God is omnipresent. Every person in every moment is experiencing God as the ground of both order and freedom . . . God works in the world by continual and universal self-revelation”* (1993, p9). *“When process theologians are asked how God acts in the world they have an answer that does not escape into the supernatural world of magic and wishful thinking, but embraces the scientific quest for knowledge and all that it teaches us”* (1993, p44).

Barbour suggests that, *“God acts by being experienced by the world, affecting the development of successive moments. But God never determines the outcome of events”* (1997, p287). Here we see a divergence from the interests of Evidential Theology: we have already indicated that this is based on the principle that God is continuously incarnate in and through the world as a means of establishing a relationship with humanity. That relationship is one of Love, quite distinct from the autocratic role which Process Theology sets up in order to knock it down.

O'Murchu (2004) is inspired by the ideas of physics that emerged in the early 20C, in particular the way in which Quantum theories challenged Classical models of how the universe operates. He is less concerned with the fact that quantum physics presents a very different view of behaviour from that on which scripture was written, but more inspired by possibilities which result from being freed by the constraints of a mechanistic metaphor whose principal features he identifies (2004, p25) as:

- cause and effect
- deterministic
- reductionist
- rational
- objective

In their place, as O'Murchu reports, we have to face the conclusion that everything interacts with everything else in ways which have surprising outcomes. Firstly, it means that nothing is isolated and that we have a moral responsibility for the

consequences of our actions and the long term survival of our environment. Secondly, that matter can manifest itself in different ways, notable the wave-particle dualism. Thirdly, *“It is at a perceptual level that the new theory evokes a new way of viewing and understanding our world. . . . interacting with it experientially rather than trying to conceptualize it at an 'objective' distance”* (2004, p29). *“In the quantum worldview, nothing makes sense in isolation; basically, there are no boundaries, and influences can emerge from several sources”* (2004, p33). Swinburne (2006) examines how this understanding of mutual influence has replaced the need to assign the effect to God in the shape of Divine Laws.

Evidential Theology shares this understanding that we cannot establish theological and ethical statements in the abstract, independent from the evidence of a God, in a loving relationship, interacting with the totality of humanity.

O'Murchu also looks at the implications of Uncertainty but makes rather less of it than we shall when we return to our methodology in a later chapter and posit Uncertain Theology in which it is possible that specific statements about God and how he expects humanity to behave can be, in the sense of particle physics, infinitely uncertain.

The use of evidence from the surrounding world in three case studies will throw up problems with received marriage theology which will need to be resolved. Situational Ethics is one attempt to provide a basis for just such contexts. Pioneered by Fletcher (1966), it seeks to respond to the experience that deterministic principles appear to break down in specific cases, often at the point when they are most needed. In some cases, two or more legalistic rules lead to different conclusions of the right action in a particular context. In their place, he proposed that decisions should be made in each context and the circumstances surrounding it.

In the case of Marriage Theology, this might mean that when we encounter difficulties in reconciling the evidence of, for instance the ability of people with a learning disability to form enduring relationships, we should resolve the problem by allowing different action – action which may be counter to some established principles – if the context demands it. *“there are times when a man has to push his principles aside and do the right thing”* (Fletcher, 1966, p13). Situational Ethics prefers this over expecting general

principles to be discovered which encompass both the majority as well as the marginal cases.

In many ways, this approach is reminiscent of early attempts in physics to accommodate new experiments that could not be explained by Newtonian mechanics by adopting models which were essentially 'traditional' but with special cases. Better progress was made, such as with Quantum Mechanics, when it was recognised that fundamentally new principles were needed.

3.4 Methodology In Action

The impact of the Evidential Theology methodology is that we shall begin by looking at what marriage is, or has become, as seen in contemporary society, largely in a north European context, but with some reference to north America.

Potentially, one of the methodological problems we face is in determining what situations are 'marriage' and which are not, especially if we seek to draw generalisations from our observations. For example, if we accepted the assertion – made historically quite widely – that marriage cannot be ended and that divorce is not to be allowed, a relationship which follows a secular declaration of divorce may not be considered (at least ecclesiologically) as a marriage. In which case, any observations which included such situations would potentially be flawed, especially if there were considerable sub-group variations between those in a first marriage and those who had formed their relationship after a divorce. We would for example, have a conflict if we found that second marriages lasted longer than first marriages.

For the present at least, we shall set aside this concern and generally examine situations which have a broad social acceptance as being marriages.¹⁰ Indeed, it may well be that in the process we shall see a need to allow a broader definition of what is a marriage or, especially, what a marriage constitutes.

This problem arises even within the stage of examining the nature (ontology) of marriage and before we allow a sense of purpose (teleology) to invade what we are prepared to define as marriage.

Conclusion

In this thesis three situations are considered which are, broadly speaking, new to the essence of Christian theology of marriage, namely:

- marriage where one or both partners has a learning disability
- post-menopausal marriage (as a focus for deliberately childless marriage)
- changes in the parenting role

In each case we will examine what is happening in practice and how this evidence shows defects in past theologies of marriage. In this way we shall seek to reach a more encompassing definition of the nature (ontology) of marriage.

In the manner set out above, this evidence will be found to indicate areas in which we can clearly state that the purpose, or theology, of marriage does not lie. Having thus used the evidence to reject some traditional beliefs, especially where marriage is used as a paradigm for other theological constructs, we shall need to reconstruct a better basis for the church to teach about the purpose (teleology) of marriage in our contemporary society.

- 1 Although the words 'Doing God' have been widely used, Spencer (2006) gives a particular contemporary focus.
- 2 In general in this thesis, God is referred to in the third person as 'he' but it is not intended that this should indicate gender but rather as a distinction from 'it'. That is, the assumption is that God has a personality, however unclearly defined that concept might be.
- 3 It is important to recognise that the bible is generally quite silent on the matter of rights.
- 4 Polkinghorne (2000) says: "*The impersonal is not to be given precedence over the personal*" (p13)
- 5 And that it operates everywhere the same.
- 6 Nelson's use of the term 'complementarity' is different from Pope John Paul II's.
- 7 Barbour (1997) uses the criterion which he calls *agreement with data* and extends the notion of data: "*the stories and rituals of tradition are part of the data that must be interpreted.*"
- 8 Not to be confused with 'Laws of Nature'.
- 9 A large compendium of resources supporting Intelligent Design is available at Intelligent Design (2010)
- 10 The enduring popular reference to 'common law marriage' exemplifies this.

4. Learning Disability

One of the case studies I will consider later is that of marriage where one or both of the partners has a learning disability. We have already identified in the Literature Review that the general theological understanding of this aspect of human nature is inadequate for the specific purpose of marriage theology and so I shall first look particularly closely at this area. To do so, however, we need to gather the evidence about the phenomenon called learning disability in order to gain a clearer understanding of the condition and ways in which it may be relevant to a wider consideration of marriage theology. In particular it will be seen that there are important differences between physical and learning disability, both from a general theological point of view as well as in respect of our specific concern with marriage.

Understanding learning disability¹ is a useful tool in this context because there was very little recognition of the condition in biblical sources and there are therefore no obstacles arising from narrow perspectives on single 'proof' texts. Any use of scripture, rather than reason and tradition, has to cite more general material than anything which mentions learning disability *per se*. There are not the same problems as when attempting to decide whether a word which is translated, let us say, as adultery, means the same now as it did in its original context or, indeed, at any intervening time when tradition was being moulded. Not only is the bible silent on the matter, it is quite probable that the condition – at least as it is understood today² – was unrecognised. Many of the individuals who now survive into adulthood with a learning disability would have not done so in biblical times, through the lack of relevant medical care. Of those simply with a low intellectual capacity, the nature of the economy at the time would have been less disadvantageous.

This thesis is not primarily about learning disability³ but we shall have to develop a theology of learning disability in order to develop our understanding of marriage, because there has been so little work on the subject. We will set out these considerations at some length, partly because we shall discover some important theological aspects about learning disability in itself, but more especially because it reveals some important conclusions about human nature and how it affects our

approach to sexuality and marriage. In this context, Stuart writes, “*The resurrected Christ fulfils the promise of the incarnation that God is with us, embodying the full contingency of human life*” (Isherwood & Stuart, 1998, p93) and in this context that spectrum of humanity includes all forms that are labelled disability. Earlier she said, in reference to Eiesland's work, “[*physical*] disability has been linked either with sin or with special righteousness which is tested through an embodied trial” (1998, p2). I will contend that, in relation to learning disability, both of these are erroneous. However, it is much harder in this case to resort to the solution that she highlights that, “*the Church makes statements like 'all Christians are disabled in some way'*” (1998, p92). To extend this to learning disability requires a lot of careful consideration – especially as such people are even more marginalised than those with a physical disability.

Several questions arise: Does learning disability define a group? Are there inherent characteristics to justify a distinction or are we talking about a property of all humans which may emerge in different ways? How far are those labelled learning disability aware of their designation? How much does it matter? Does traditional teaching on marriage – and sexuality within marriage – depends on a narrower view of humanity that excludes people with a learning disability?

Let us compare this question with *gender* as an issue: as many writers have indicated (mostly since late twentieth century), gender issues are primarily cultural. Butler (1993) argues that not only are masculine and feminine matters of performance but that they are also culturally formed. What we *do* is, in part, affected by what society thinks we *are*.

Moore (1992) argues against a clear binary segregation (which is needed by those arguing for the traditional Christian view of sexuality) and rejects the idea that sex other than between a man and a woman – probably married – is not natural. He says that, although it may ultimately be the case that same-sex actions are to be rejected, one cannot do so by ‘reading off’ this conclusion from observation of either the human or the animal world.⁴

However, most writers seem to conclude that gender, if not sexual orientation, is - in the great majority of cases – clearly understood by the person themselves. It is not possible to determine objectively whether animals are aware in this way but it seems

likely that such self-awareness is a particular human attribute. Coontz asserts that “*marriage is a social invention, unique to humans*” (2006d, p34). As a consequence it is hard to justify drawing conclusions about sexuality from the animal world (where there is gender but probably not sexuality) especially when attempting to determine what is or is not ‘natural’. We cannot even tell whether any animal is able to make the link between sexual intercourse and procreation, or even when humans first became so aware. We do, however, know that in biblical times (and therefore in the minds of those who wrote scripture) there was a quite erroneous understanding of how conception works (Coleman, 2004).

Of course, no conclusion about gender identity can make absolute claims since there is a small number of cases where there is clear gender and sexuality confusion, whether by experience or wholly from genetics. Certainly, a very small number of humans have an ambiguous biological gender whether this is perceived through having confused sexual organs or through XXY chromosome abnormality.⁵

Any theological conclusion – or even moral conclusion based entirely on secular principles – has to be capable of including the small minority of difficult cases and the recipes for appropriate or approved behaviour must work for these people.

But what does this indicate for the case of learning disability?⁶ Here again we have a similar situation with a range of characteristics of varying origin, both genetic, social or acquired (such as through injury).

There has been a tendency to treat the subject as a binary condition – people either have a learning disability or they do not.⁷ Indeed, there are social circumstances where having or not having the label is important, such as access to special educational resources or social benefits. In a slightly different context, it is interesting to reflect on the world reactions to allegations that one nation’s team at the 2000 Paralympic Games were cheating by faking their disability (IOC, 2003).

There are two important issues about *identity* when formulating theological or ethical statements regarding learning disability. Firstly, can we unambiguously⁸ and objectively attach a label to particular people which is equally clearly not attached to others?⁹

Secondly, how far is that label part of the individual's own self-identity? Are they aware of being different? Are they prepared to accept different treatment as a result? (In the case of gender, the issue is sometimes of not wanting discrimination, in the context of sexual equality, yet in others of wanting it, in the case of transsexuals) Positive discrimination has become as problematic as it has been helpful.

Without clear answers to both of these questions we will need to be very careful about enunciating any absolute conclusions about what people with such a label may or may not do in their lives. If, for example, we were to conclude that people with a learning disability could not be allowed to marry, then we have to be very certain that the label is correct. Otherwise we may have a situation in which individuals are denied the right by one 'expert' and granted it by another. Even more complex is the situation in which a label might be clearly applied by a wide range of 'experts' but not by the generality of the population.¹⁰

Basic human rights must be accepted and understood by society as a whole, although their application and interpretation may involve recourse to courts and other places of judgement. However, it is probably necessary that allowing or denying rights to an individual should command widespread support and understanding (although in the case of institutional punishment and tabloid media this is not always true!)¹¹

At the same time, however, society has (in some countries at least) abrogated to itself the right to make identity decisions on behalf of the individual. At present in the UK it is not possible for an individual to petition for their official gender to be altered once it has been entered onto their birth certificate.¹² When we look at the lifetime consequences for those where mistakes were made or where genuine uncertainty exists, it is surprising how such initial decisions are made with little thought or consideration!

Whilst it is not absolute, the learning disability label is hard to change once given or denied. Indeed, some parents can spend much time and energy pursuing doctors, geneticists, social workers, teachers and the like, to obtain a formal label for their child – or to have it removed. The underlying motives may be very complex and be as much to do with the need to assuage the guilt feelings in the parents for having a disabled child as to do with gaining identity or benefit for the child itself.

In some ways, this is not just a modern issue. In earlier centuries the practice of *castrati* in cathedral choirs meant that, in early infancy, parents would seek to alter the sexuality and gender of their child for the sake of economic benefit, either for them or for their child. Even today, the *hijras* are an identifiable, economic class in India (Anon, 2008).

Identity, for minorities, may be important – as Moore (1992) points out in the case of homosexuals – as a defence mechanism. There is no need for a group identity for heterosexuals as they form the greater part of society and are not under threat from authority or fellow humans. However, homosexuality is under threat and so there is an evolution of a group identity which goes beyond individual sexual orientation and which ultimately can become a restriction. Homosexuals may be expected to conform to the paradigm (both from within and from without the group itself) and to accept normative behaviours for their group. This can lead to there being (allegedly) ‘gay’ ways of doing certain things, or appreciating certain things, in a context in which there is no corresponding ‘straight’ way of appreciating the same matters.

The same problem arises with learning disability: both at an individual and at a group level, there is an expectation by society of how such people will and should behave, how they will perform and what they might achieve.¹³ Such expectations are generally limitations in the same way as gay identity, black culture and women’s issues can become. Rarely, if at all, are the norms of such minorities seen as positive characteristics which are not open to the rest of society. Imagine a white person saying, “Oh, I wish I was black because then I could do . . .” – quite different from the other way around, which is definitely more imaginable. Far too many people with a learning disability fail to achieve simply because they are not expected to do so.

Even some apparently positive descriptions have negative or restrictive roots. It is often said of people with Downs Syndrome, “They are such loving people”. Not only is this popular expression more myth than reality (perhaps confusing a manipulative skill with ‘real’ loving) but is rooted in a desire to set such people apart from the rest of society: ‘us’. In any event, the syndrome is so easily identified and the myth so widespread that it is hard to distinguish between nature and nurture in observing how such individuals behave.

There is, for the most part anyway, an important difference between the way in which minority identities for gay, black, women, poor groups emerge and that for learning disability. In the former cases, the identity is largely generated from within the group, from those who are gay, black, female or poor and who want to say something positive about themselves, often as a reaction against repression as a minority. The identification of learning disability, if such a group exists, is done *to* the group (or to members of the group) by those from the outside, much as in earlier times people might have been prepared to argue seriously (for example) that all black people are lazy, promiscuous or whatever.

In some cases, people with a learning disability must be aware of their label and be able to contribute to formulating a group identity. Self-advocacy groups, such as *People First* (2008), are beginning to be formed which attempt to create such an identity and to achieve the analogous positive outcomes that other minority groups have achieved for themselves. However, almost all of these groups are supported by people who are not labelled 'learning disability' and most are initiated by them in the belief that they are good or necessary for the client group. For the majority of people with a learning disability such self-identity barely exists and so the characteristics are inevitably established from without.

The Mental Capacity Act (Parliament, 2005) seeks to protect the position of those members of society who are unable to make certain decisions¹⁴, often important lifestyle decisions, for themselves or to handle their own financial and legal affairs. In so doing it asserts the right of society to define such a category of people and to restrict their basic human rights accordingly.

Whilst such intentions are not seriously in question, the future impact certainly is. The following quotation is taken from evidence to the Parliamentary Standing Committee which considered the Bill:

We are worried that if the Mental Capacity Bill becomes law disabled people will be stopped from making the 'small' day to day choices like eating the food we like and dressing in clothes we feel good in, right to what happens to our bodies together with the enjoyment of going out to work and having fun, moving home and having friends and relationships and in short having a life.
(Parliament, 2004b)

The website goes on to identify various detailed concerns about the rights of those who may be brought within the coverage of the Act.¹⁵ Although current best-practice

in social care clearly indicates the need to support choice for individuals with a learning disability, it is still possible to observe the contrary in isolated practices.¹⁶

Hauerwas, speaking in the admittedly comparatively early date of 1977 (but re-published in 1986), talks about 'the retarded' as a group in ways which were clearly intended to see a justification for their existence, "*let me suggest what I have observed the retarded have done for their parents*" (1986a, p41). He also identifies problems with normalisation "*the demand to be normal can be tyrannical*" (1986a, p40) even though he seems to overlook the fact that, for the profoundly disabled at least, it is others who are making the demand for normality supposedly on their behalf.

This is a point that O'Brien takes up in his response where he clearly has problems with identifying those with an intellectual disability as a group:

The asymmetry generated by dependence continually tempts those who offer assistance and those who receive it to freeze themselves into postures of power and dependency ... I think that the most frightening reality that people with intellectual disabilities raise is the difficulty of living gracefully with the continuing demands and temptations of practical dependency" (O'Brien, 2004, p49).

Of course, without the existence of learning disability as a category or group, there is little prospect of being able to marshal interest and power to enable appropriate provision for their needs and aspirations to be established.

Yet O'Brien concludes his response by sharing with Hauerwas that it is dangerous to "*attempt[ing] to make "the retarded" normal ... and thus stripping them of differences important to their identity and history*" (2004, p50). It is essential to this view that people with a learning disability are clearly a group that can be differentiated from those who are not in such a group. It necessarily argues that there is an inherent difference between those who are in such a group and those who are not.

Hauerwas also perpetuates the myth that adults with a learning disability are really still children – "eternal children" is the phrase he used (1986a, p186). He suggested, with echoes of Paul ("*When I was a child I thought as a child*" 1 Cor 13:11), that people with a learning disability can never enter the adult world. Furthermore, he seems to reinforce the assumption that care for them "*can be justified only because they are eternal children*".

Since that essay was written much more work has been done which recognises that adults with a learning disability are exactly that – adults. Whilst some aspects of their performance are limited by their ‘condition’, others are not and it is often those parts of the human personality which are not primarily driven by an intellectual component – love, hate, responsibility, desire – which can develop just as effectively as for the rest of the population, but which are regularly denied fulfilment. That denial is more because society refuses to allow them the opportunity than because they lack the capacity for such feelings. It is exactly this side of human nature which is central to our understanding of revelation through incarnation and which demands a response in similar terms.

Recognition of this aspect of caring for people with a learning disability is especially important for a church response: theologically, the heart of the gospel message is an emotion: “*God so loved the world that he gave*” (John 3:16) but in practice the faith is transformed into an intellectual activity – and this is not an anti-theological jibe either. At a practical level we expect congregations to be able to read in order to participate fully; we have often erected hurdles such as learning by rote or confirmation classes, all of which are formulated in an intellectual way. The more emotional forms of churchmanship are frequently castigated by others for just that characteristic and that they lack ‘rigour’.

One of the least well solved aspects of inclusiveness (to date, in any case) is to avoid the temptation that the only way to comply is through a comprehensive kind of dumbing down, a reduction to the highest common factor, something in which everyone can participate equally. To the extent that this instinctively seems unworkable or undesirable it can lead to an adverse reaction and a ridiculing of genuine attempts to mitigate the consequences of disability, in whatever form. Certainly, avoidance of unnecessary barriers has become something to which we are all now much more sensitive and, in part, has been institutionalised in various standards and codes of practice covering a wide diversity of situations. (See, for example: BSI, 2008, 2009)

Yet an essential part of humanity is also diversity – sensitivity to gender, sexuality, race, ability has generated a call for increased identity for those who are ‘different’. This move is not unwelcome and is perhaps more in tune with Paul’s recognition of

the importance of species differentiation (1 Cor 12:12-27). This is much easier to support when we perceive individuals who have obvious gifts (1 Cor 12:28) – we can then encourage their diversity and, to take but one example, society has become richer by admitting feminine as well as masculine ways of approaching many issues. The problem is more challenging when we find it hard to identify a particular skill in an individual, especially one who has problems with achieving ‘ordinary’ things in life.

It is one thing to view our appendix as something seemingly without known function, to the extent that if it becomes a problem we can cheerfully cut it out and throw it away, forgetting that it was ever there in the first place, were it not for the surgical scar – and no doubt better keyhole techniques will even remove that reminder. It is another matter entirely to treat an individual human being as having no useful function, allowing us to ‘throw them away’ – even if this is exactly what earlier generations would have done. (Ironically, it now appears that the appendix may after all have a useful function (Anon, 2007d) making it an even more useful analogy!)

The consequence is that theologians seek to identify a ‘purpose’ for those with a disability, especially those with profound disabilities, a purpose that arises specifically from their disability rather than their membership of humanity as a whole. Sometimes this is expressed in terms of what emotions and practical actions it allows others to experience – their existence ‘allows’ us to care for them, even if in the process it reinforces our feeling of superiority. “*Thank God that I am not as one of these*” (Luke 18:11) may well be an underlying motivation. Even Hauerwas, after reacting favourably to calls by Catholic Bishops to “*the notion of interdependence is critical and that openness to discovery in diversity or difference is vital*” (1986a, p187) still concludes an essay with the phrase “*retarded people can be appreciated as inherently valuable*” (1986a, p188) which repeats the view that ‘value’ (however we measure it) is a key to our theology.

Kelley records that:

the classificatory scheme 'disabled'/'nondisabled' did not exist for Greeks and Romans. In modern Western parlance it is common to speak of disabled individuals as belonging to a separate and identifiable group, but this was not the case in the ancient world (2007, p33).

Yet it may well yet prove that this is a dead-end for theology – a line of development that takes us into unproductive backwaters. Instead, perhaps we need to rehabilitate the essence. If the ‘purpose’ of humanity (even supposing that we really need to find one) is to allow God an incarnation – the recipient of God’s love that enables that love to exist in the first place – then we need look no further. Whilst, in human and social terms it is inevitable that our utility is measured by what functions we can perform, and perform better than others, the factor that binds us all is simply that we are humans. It is this that differentiates the profoundly disabled from an appendix, something that cannot just be discarded just because we fail to identify an economically useful function.

Secular society has at least moved to the point at which learning disability is seen to be part of the spectrum of humanity and that such individuals are not to be set apart on the basis of fear.¹⁷ Nevertheless, in detail there is still much to be done to avoid the unintentional discrimination that arises simply because people lack either knowledge or understanding of what to do in specific situations as they meet them.

At least in Christian terms we need look no further and, indeed doing so may well cloud that essential message: the purpose of all of us is to be human, no more and no less: humans that have the potential to be the recipients of God’s love. It is important also to put it this way round, rather than to say that our purpose is to respond to God’s love, for several reasons which include, firstly, that we assert that God’s love is unconditional. It does not depend on our response for its existence. God’s love would, we claim, still exist even if all of humanity was so disabled that it could not recognise it. Secondly, to make God’s love in some way dependent on our response starts the process of setting achievement barriers in the way of salvation and redemption.

Conclusion

Most of this chapter has been about understanding what is meant by the expression 'learning disability' but in considering the question of whether such a characteristic defines a clear group of people, in the same way as gender and race have done, we have run into serious problems with ensuring that our theology is universal. We will therefore have to explore the notion of a theology of learning disability itself.

- 1 The following terms have been used at some time or another, most of which have gradually fallen into either disuse or disfavour, often because of attempts to find new terms which avoid adverse connotations associated with earlier words: Imbecile, Mentally Defective, Mentally Deficient, Mentally Retarded, Ineducable, Mental Handicap, Special Needs, Perceptually Handicapped, Learning Disability, Learning Difficulty
- 2 The term 'learning disability' dates probably only from 1996 and initially was associated with reasonably clear and specific definitions. More recently, however, organisations specifically directed towards supporting people with a learning disability have adopted very much more unspecific descriptions, not always with helpful consequences.
- 3 A further complication is that, in the United States, the term *learning difficulty* is often used with a broader scope (distinct from *learning disability*), particularly to include those children with behavioural conditions such *Attention Deficit Hyperactivity Disorder* (ADHD). This use has been politically controversial with some opinion (Fuchs et al, 2001) rejecting the symptoms as a 'condition' but rather as the result of poor parenting or the lack of appropriate learning opportunities. (See Audiblox 2009 for an example of this approach, with commercial overtones, which also used the term *Teaching Disability*). In this country, the educational field has more recently used Special Needs to include those who are assigned to a special school on the basis of behavioural issues. At some stages, conditions such as *word blindness* (dyslexia) have been considered to be part of the learning disability spectrum (Hinshelwood 1907) but this would not be considered helpful today. With suitable educational support, conditions such as dyslexia no longer need be an obstacle to considerable achievement. On the other hand, the present use of autistic spectrum can be unhelpful, certainly in our present context, as some people at one end of the spectrum are capable of functioning well within society, learning to live with their characteristics, whilst at the other end there are people who need full time care.
- 4 This warning about 'reading off' from nature is an important constraint on Evidential Theology and leads us to ensure that we use evidence primarily in a negative sense of indicating what is not a valid argument rather than the converse of telling us what must be the case.
- 5 A detailed consideration of what distinction can be drawn between biological and social gender lies outside the scope of this thesis other than to recognise that there is no simple conclusion that can be 'read off' from nature.
- 6 The wide variety of definition leads to a corresponding divergence about its prevalence. An approach based purely on a statistical basis of IQ (Newcastle 2007) indicates 2.5% whilst US sources suggest a slightly lower figure of just under 2% (National Health Interview Survey, 1997) but figures as high as 25% - 30% are occasionally cited (St Louis

Learning Disabilities Association 2009), although these may reflect those which include social skills deficit within the scope of the estimate.

- 7 A learning disability is caused by the way the brain develops. There are many different types and most develop before a baby is born, during birth or because of a serious illness in early childhood. A learning disability is lifelong and usually has a significant impact on a person's life. Learning disability is not mental illness or dyslexia. People with a learning disability find it harder than others to learn, understand and communicate. People with profound and multiple learning disabilities (PMLD) need full-time help with every aspect of their lives - including eating, drinking, washing, dressing and toileting. (MENCAP 2009)
- 8 Ie we need to look at both false positives as well as false negatives.
- 9 The World Health Organisation defines learning disabilities as “a state of arrested or incomplete development of mind”. Learning disability is a diagnosis, but it is not a disease, nor is it a physical or mental illness. Unlike the latter, so far as we know it is not treatable. Internationally three criteria are regarded as requiring to be met before learning disabilities can be identified: Intellectual impairment, Social or adaptive dysfunction, Early onset (BILD 2009)
- 10 The General Synod paper, *Opening the Doors* (GS 2009) begins with: “A person is said to have a learning disability if their capacity to understand new or complex information or to master new skills is significantly limited. A learning disability is not the same as a learning difficulty, such as dyslexia or dyscalculia.”
- 11 This is no theoretical risk either, as the series of cases regarding the rights of mothers to keep their children, or to be convicted of murder, have highlighted. In some cases the concerns identified by experts proved justified yet in others the underlying theoretical or scientific evidence was plain wrong as later evidence demonstrated. (BBC 2005a, Shaik 2007)
- 12 Recent judgements in the European Court of Human Rights may lead to changes
- 13 Functional limitation may either be the result of genetic factors or acquired as the result of a life event. Some cases arise from peri-natal circumstances (such as oxygen starvation during birth) and others through accidents. Although there are important differences between those who have the limitation from birth and those as a result of an accident later in life, there are also many commonalities and professional care frequently covers both (when adults). Many definitions tend to exclude those whose condition is acquired later in life whilst *Opening the Doors* (GS 2009) focusses on the functional deficit, whatever its origins. It is unclear whether the distinction is necessary in a theological context.

- 14 Many people with a learning disability suffer some form of abuse in their lives (GS 2009, p37) although much of that which occurs outside the immediate family context is more from ignorance than deliberate intent.
- 15 A BBC programme *File on Four*, broadcast on 27 July 2010, indicated that these fears were with good cause
- 16 see *File on Four* cited above
- 17 *Opening the Doors* (GS 2009) clearly makes the assumption that the people with which it is concerned are housed in the community, in small group homes at the most, with many either living with some degree of independence or within a family context. On the other hand, there are some providers such as l'Arche which – perhaps because they are focused more on those with greater degrees of impairment – have a larger group community as their model of operation.

5. Learning Disability Theology

It was established in the previous chapter that there is no inherent distinction between people with a learning disability and the rest of the population. Indeed, the criteria for determining whether a particular person is to be considered to have a learning disability is not only blurred but culturally and time dependent. Nevertheless, conditions that may usefully be called a learning disability do exist and the next step is to find a theological understanding of them.

Although there have been extensive developments in the theological of physical disability, the same cannot be said of learning disability. The care and support of people with particular needs has often been led by people of faith, but primarily out of compassion for their needs rather than with a specific understanding of a distinct group.

Theological approaches to disability have broadly been aimed at bringing those with varying *physical* disabilities into the mainstream of church life. Whilst writers such as Eiesland (1994) have contributed much to raising the self-respect of disabled people within a spiritual and secular world, that thinking has major defects, especially when considered for application to those with a learning disability. As a result, I shall devote this chapter to a detailed examination of the theology of learning disability, noting the observation in the Literature Review above that this subject has not received adequate attention for the purposes of our principal aim of considering the impact of learning disability on the theology of marriage.

The first defect is that Disability Theology has tended to lead to statements that apply to disabled people but not to the population as a whole. Such specialised thinking, as with some liberation and feminist theology, is limited in its long term effect. Indeed, if it succeeds in its declared aim – of removing unfair discrimination – then ultimately it ceases to be of relevance.

More substantial reflection will help to recognise that general theology will benefit most when ideas arising from such marginal considerations (if one can describe feminist issues as marginal!) are re-imported. For example, our understanding of God is expanded, rather than replaced, by images and insights from a woman's rather than

a patriarchal male perspective. Stuart hints at this process which she calls reconstruction, by antithesis to deconstruction (Isherwood, 2000, p168).

A much less eclectic view is expressed by Pailin (1992) who was driven by his experience of Alex, a seriously disabled young child which challenged his concept of God's role in the creation of people with a disability. Ultimately he sought to re-define his understanding in a way that encompassed not only Alex but everyone else as well, disabled or not.

The extent of the difficulty for Disability Theology can be seen in, *"The body exists to perceive and manifest the glory of God. It is in the body that God comes to meet and save and elevate human beings"* (Rogers , 2002, p xix).

This teleological argument is stated as a simple fact and the editor (in his introduction) immediately proceeds to build upon it. However, whilst it might seem a compelling position, when it comes to looking at disability we have an issue, if not a problem: if the body is to "manifest the glory of God" then what aspect of God is being manifest by the disability?

Harvey, in the same anthology, says, *"Therein lies the purpose of the body: it provides the context for how and what we can and will know of God, now and in the life to come"* (Harvey, 2002, p4). In saying *"God created the body to be a means of knowing God"*, does Harvey mean 'body' as a generalised concept, or does she mean each specific body?

In the former case we then have to answer the question about why the variety extends to significant disability – variety that goes beyond an evolutionary need – whilst if God created each individual body then we have the older and more specific question, which Pailin relates to debates such as "Why does God create Evil?"

Even posing such a question accepts the long established view that disability is 'bad' and that its existence must, in some way, be related to or caused by evil – or sin. Perhaps the ultimate link is in Rom 5:12 where Paul argues that death is the result of sin. No matter that the whole of nature goes through birth and death cycles, Paul ignores the fact that the best we can hope to do with the latest science and medicine is to delay the inevitable and no amount of sin or repentance can be evidentially linked

to changes in life expectancy. Eiesland's main aim (1994) is to challenge the 'Evil' hypothesis and to establish that, despite whatever non-normative characteristics an individual may exhibit, they still have an essential worth.

But what Pailin tries to face is the fact that disability – in his case the concern is with severe mental incapacity – is related to major performance disadvantage in comparison with the rest of the population and why it is that God, if he is concerned with the welfare of humanity, has created a world in which such severe disadvantage exists.

But 'evil' is not a scientific or objective concept – it relates to ethical or theological considerations of behaviour and, furthermore, behaviour that is under our control.

In *De Profundis* (Wilde, 1905), Oscar Wilde reflects in prison. Whilst he admits "*Religion does not help me*" he also concludes that "*Reason does not help me*". However, from the depths of his despair he begins to find some meaning to his circumstance:

On the occasion of which I am thinking I recall distinctly how I said to her that there was enough suffering in one narrow London lane to show that God did not love man, and that wherever there was any sorrow, though but that of a child, in some little garden weeping over a fault that it had or had not committed, the whole face of creation was completely marred. I was entirely wrong. She told me so, but I could not believe her. I was not in the sphere in which such belief was to be attained to. Now it seems to me that love of some kind is the only possible explanation of the extraordinary amount of suffering that there is in the world. I cannot conceive of any other explanation. I am convinced that there is no other. (1905, p59)

Although thinking more about the work of artists, his comment "*Every single human being should be the fulfilment of a prophecy: for every human being should be the realisation of some ideal, either in the mind of God or in the mind of man*" (p79) could equally well be said about disability. (In some ways, this anticipates Hauerwas) And later:

If any love is shown us we should recognise that we are quite unworthy of it. Nobody is worthy to be loved. The fact that God loves man shows us that in the divine order of ideal things it is written that eternal love is to be given to what is eternally unworthy. (1905, p85)

There are parallels with attempts to unravel a theological understanding of suffering and here we do have some more direct scriptural help since there are clear indications that the earliest Christians recognised and understood the effect that their faith had on the likelihood that they would suffer for it. In 1 Peter 3:17 "*it is better to suffer for*

doing right, if that be God's will, than for doing wrong". There is an obvious expectation that doing right will almost inevitably result in some form of suffering.

But is this the same kind of suffering for which Hauerwas (1986a) seeks to find 'a point'? In this case he is thinking especially about medical conditions and the pain – suffering – to which they can lead. Apart from a few pathological cases, broadly such suffering is not the consequence of an action over which we have any control. We do not choose to have a heart defect or breast cancer.

The problem with some of Hauerwas's conclusions lies in his assumption that the question "What is the point of suffering?" is well-formed. In fact, suffering, in the sense that he is considering, is a *description* of the consequences or, even, the characteristics of, a specific medical condition. A broken leg is painful (and medical knowledge can explain some of the mechanisms by which we perceive such pain) and it is the objective of a physician both to mend the leg (so that it can perform its desired function once again) and to relieve pain whilst the leg is mending or, if it cannot be mended, in the ensuing consequences. It is no more useful to consider whether such suffering has a *point* than to ask the question "What is the point of a broken leg?" If we *have* a broken leg then we *have* pain and suffering.

This relates back to the wider debate on the existence of evil: is there a point to evil? Humans seek a specific answer to that question because they want to ascribe its existence to a particular agent: "Why does God allow evil?" or even, "Why does God create evil?" In practice it is easier and more useful to reject the question itself as not being well-formed and to view evil as an existential characteristic: evil exists only because we can perceive adverse consequences of specific actions and can attribute undesired motives to the agents of evil.

Of course, this raises the difficult question for a Christian ethicist: is a particular action wrong/evil because it is proscribed either by scripture or by the tradition of the church, or is it because of the consequences of that action? This is nowhere more relevant than in the debate about sexuality.

All too often we seek to identify an agent for evil or suffering not so much because we really want to find the answer (and in any case what good will it do us if we do find

it?) but as a means of avoiding the need to confront the existence and to deal with that issue. Suffering exists and it matters little who caused it, and why, when we face the challenge of how we respond to it. The Good Samaritan (Luke 10:25-37) is exceptional in his cultural context *because* he did not seek such answers before he responded effectively to address the condition in which he found his fellow traveller. He did not need to know whether the victim had courted his attack either ‘by doing right’ or even by being reckless. Neither the Samaritan nor we need to know whether the victim had been warned that the route he was taking was a known hazard and that, perhaps, he had gone that way to cut costs or to challenge his assailants and their evil way of life.

Equally, we have to overcome natural difficulties in deciding the culpability of individuals seeking medical treatment. Does a person with liver failure caused by years of unrestrained drinking have less of a claim to treatment than someone whose circumstances are identical but which arose from genetic factors? Of course, physical and mental capability deficits are not the only birth disadvantages – wealth and environmental deficits are often at least as disabling (DfES, 2005).

What Eiesland challenges is the assumption that it is evil of God to create such disadvantages but rather that it is the responsibility of society to eradicate the *social* consequences of such capability deficits, in the same way that we might work to eradicate the fact that people live below a poverty line.

A striking approach is taken by Albl who, in considering what he calls *The Paradox of the Gospel at Corinth*, looks at disability this way:

In the ancient world, a crucified person was the ultimate example of “disability”. On the one hand, a crucified person was the ultimate symbol of “functional limitations” – a person stripped of all ability to do anything for him or herself. With regard to the second aspect of disability, a crucified person bore the ultimate in social stigmatization (2007, p 149).

In other words, with the centrality of the crucifixion in Christian theology, we not only have to break the link between suffering and evil, but must also have to recognise that too much stress on *ability* is to fail to understand the universality of *disability*. As well as recognising the shortcomings in each of us – both innate functionality as well as chosen courses of action – we have to be prepared to trust that accepting ultimate disability is the way in which Christ culminated his ministry on earth.

But the process by which society engages in the eradication of social disability is still influenced in part by the ancient belief that illness is a sign of God's displeasure, his impatience with the fallibility of humankind, a punishment for sin. Hauerwas cites Amundsen & Ferngren:

According to one view, if God sends disease either to punish or to test a person, it is to God that one must turn for care and healing. ... On another view, if God is the source of disease, or if God permits disease and is the ultimate healer, God's will can be fulfilled through human agents (1986a, p67).

Here, Hauerwas is dealing with the relationship between religion and medicine, two activities which he asserts have always been linked together and, despite the rationalism of medicine in the twentieth century, a more recent recognition of holistic principles re-establishes that curing the body may, in part, involve healing the soul.

Of course, this line of thinking was largely responsible for the Medical Model which Eiesland and others have rejected as the basis of an approach to disability. But what she does not state clearly is why the Social Model is so incompatible with this historical attitude. The difficulty in countering the historical attitude lies in the essence of disability: too easily we can slip into believing that disability is an illness, at least somewhere in the same domain, sufficiently similar that we can apply the same principles. We may even seek to eradicate learning disability through genetic selection.

Kelley takes the Social Model a stage further:

And it would be remiss to discuss the culturally contingent nature of deformity and disability without mentioning recent scholarship that employs the vocabulary of postmodernity to challenge the entire concept of disability as a normative discourse. ... In other words, disability is not so much an objective reality as the product of discursive practices ... that marginalize, exclude and limit those whose bodies have certain physical traits (2007, p34).

What Eiesland has done is to establish the right of people with a disability to be considered first and foremost as *people*, albeit people with particular needs but not in any way intrinsically different from any other part of humanity which, in *every* case is flawed and in need of help. But it takes a long time to persuade society as a whole not to see disability as an illness – its very definition focuses our attention on what a person *cannot* do rather than on what they *can* do.

A child born with a hole in the heart or one leg shorter than the other is surely entitled to medical intervention so that they may lead a more effective life. Certainly we can usefully distinguish between *curing* a disability and *ameliorating* it. Indeed, conditions such as a 'hole in the heart' highlight a problem: most people, including physicians, would probably instinctively categorise this as an illness, similar in status to, say, blocked arteries. Both prevent the heart from functioning effectively. However, the latter is an acquired condition, the result of lifestyle or ageing deterioration but the former exists at birth and, in principle, is no different from many other physical disabilities. Yet we react to them and treat them quite differently. The danger is in viewing the treatable as an illness and the untreatable as a disability.

Taking Harvey's view - that God created each individual - is the more difficult and does not accept Pailin's view that God created the mechanism for each body to be formed but does not have a direct hand in each one. In this case, what are we to make of Harvey's comments cited above?

Harvey also cites the early Syriac writer, Ephrem, as enunciating the view that the believer's body is the battleground in the fight with Satan. "*the believer must also defeat Satan by refusing Satan victory in these assaults*" (hunger, thirst, weariness and death are given examples) "*on the weaknesses of the body*" (Harvey, 2002, p12). The danger here, surely, is in giving credence to the view that disability is somehow a mark of evil, the result of the sins of forefathers or one's own fault. It is no longer acceptable, in an age that now understands more about genetic behaviour, natural selection and inheritance, to suggest that disability and its consequences are somehow the result of sin, nor are those who are so characterised to be considered less than fully human.

Many of the current issues such as sexuality, gender, disability, suffer from an irreconcilable conflict between those writing from the outside and those from the inside. As Hebblethwaite (1999) puts it when talking about early liberation theology, "*it was not just a theology about the poor, it was a theology for the poor*" (p209). However, when considering the case of learning disability, for the greater part this is necessarily done from the outside.

Eiesland, along with Stuart (Stuart, 1995, pp 207-209; Stuart & Thatcher, 1997, pp 102-105), talks either literally or by implication of disability as being 'pain', something

that has to be endured, suffered and, at best, overcome. The Gospel narratives tend to compound the Healing Myth by recording stories about disabled people who are 'cured' by Jesus or the apostles and, indeed, disabilities such as blindness are used as a metaphor for a sinful state (e.g. John 9:24-25).

The Healing Myth helped to give rise to the medical model that McCloughry and Morris (2002), as well as Eiesland and much of the 'disability rights' movement, so decry. Despite the emergence of better models for thinking about disability, the Healing Myth, or its denial, still has strong influences.

The replacement of the Medical Model by the Social Model is consistent with comments made above about our response to evil and suffering. Insofar as the Social Model put an emphasis on society's reaction to disability then the change is helpful. However, there is a real danger lurking below the surface, that it tends to normalise disability. That in one sense is good as it helps us to recognise that people with a disability, whether physical or learning, are all cast from the same mould of humanity, they are not a race apart. In that sense, disability *should* be normalised.

However, if we take the line too far we begin to normalise disability to the extent that we are content to do nothing about either the effects of the disability or, more especially, to put resources into finding ways of preventing or eliminating the disabling condition. Again, with the Good Samaritan, he was not content simply to address the immediate condition and put the victim back on the road but he went further and sought to improve life for him (Luke 10:33-35).

Walls identifies the way in which disability was considered in ancient Mesopotamia and he concludes that they had a keen sense in which everyone had to be fitted into roles that matched their particular characteristics. Rather than rejecting people with a disability they identified specific jobs which they were best suited to perform. Looking at the myth of Enki and Ninmah, he writes:

In each of these six cases (of people with a disability) Enki provides a social position and productive economic role for Ninmah's purposefully malformed children. Indeed, some of these people are given advanced technical skills (silversmith) or powerful positions at court rather than menial tasks to earn their bread (2007, pp18-19).

the myth describes the deliberate creation of humans with abnormal functions or physical disabilities as part of the organisation of the world ... Although

the text leaves much room for interpretation, the myth appears to express a community model of disability, in which people's diverse abilities are valued for what they contribute to society (2007, p30).

If we are not careful, a strict adherence to the Social Model reinforces our misconception that disability is an inherent characteristic and that those who 'suffer' from it are a distinct group, apart from the rest of society. Society is expected to *do* things *for*, if not *to*, people identified as having a disability. But in seeking to improve or ameliorate the lifestyle of people with a disability we must not so define 'normal' as something to which we aspire that we fall into the trap of saying, "*I thank God that I am not as these people are*" (Luke 18:11).

Not all physical disability is necessarily 'painful': the television drama *Every Time You Look At Me* (Mickery, 2004) poignantly highlighted the life of two young people, one with thalidomide damaged arms, the other of very short stature. Both are – apart from their 'obvious' deformities – beautiful people and very much in love. They are conscious of how people see them but have overcome their disabilities, he to become a deputy headmaster and she a qualified hairdresser.

In a sense both suffer 'pain' as a result of their sensitivity about their image, however successfully they had thought that they were in suppressing it, but it is difficult to say that this is pain which is intrinsically different because they are disabled. In nature it is similar to teenage angst or the poor self-image that many feel about how they look. It may be different in degree but not in nature.

People with a moderate learning disability are not necessarily in 'pain', although they may feel emotions which are different in degree as a result of their disability. Any theological treatment of learning disability has to take a much more positive view of people, especially those who have no identifiable 'condition'.

Just as with the existence of evil, there are genuine questions about how and why learning disability exists. There are those individuals with a clear condition that limits their ability to exercise a full range of mental activities whilst with others their designation is based on falling one side of a man-made division based on particular measures of intellectual ability. In this respect there are clear parallels with the definition of poverty.

Pailin (1992) confronts the issues which are raised when questions such as “Why does God create people with a disability?”, but inevitably does so on the basis that people with a disability feel themselves to be disproportionately deprived in comparison with the rest of humanity.

Opening the Doors (General Synod, 2009) places the Social Model at the forefront of both theology and policy. It highlights the distinction between *impairment* (what someone has) and *disability* (what someone experiences) and places the onus on society to eliminate the effects of impairment on an individual's ability to participate fully in society. Its theological underpinning is firmly rooted in the assertion that “*people should not be defined by their intellect*” (General Synod, 2009, p7) whilst not facing up to the fact that much of our expression of faith is cerebral in nature.

A parallel exists here with that of poverty: whilst an individual's earning capacity may result in income levels below an agreed level (poverty) it is a social issue to put in place policies and practices to eliminate or diminish the impact. In both cases, definitions are inherently relative and society-defined. Hence, it seems hardly fair to 'blame' God for their existence. God creates a variety – and society (collectively and individually) will be judged on how it responds to that variety.

5.1 Social Care and Social Integration

Just as a Christian response to any area of deprivation is to seek to improve conditions through a secular agenda, derived from a religious concern, so too we should look at how people with a learning disability are supported in the wider community as well as in the particular of church life.

However, we must face the paradox which many have voiced, including Hauerwas:

Retarded people cannot justly be treated 'just like anyone else,' as they often do require 'special education' which allows them to develop skills to interact in society in culturally normative ways. At the same time, to the extent they are singled out for 'special' treatment, we reinforce the unjust characterization of what it means to be retarded (1998, p185).

On the other hand, those who are primarily driven by the Social Model take a strong line, such as Carlson:

Modernistic and post modernistic supporters of special education squared off in a long lasting battle regarding the effectiveness of differing treatment

methods. Modernists believe that special education should use instruction to enhance the functioning, knowledge, skills and socialization of individuals with disabilities. Postmodernism views LD as a social construction that is based on incorrect and immoral assumptions about difference; that view focuses on changing social constructions that limit the success of individuals with disabilities (Carlson, 2005 citing Hallihan & Mercer, 2001, p15).

Opening the Doors strongly adopts the Social Model as theologically sound, but recognises that there are circumstances where there is benefit from a Medical Model (General Synod, 2009, p9). The report is also an important step in developing the church's role in supporting people with a learning disability and begins to address the possibility of active sexual behaviour and marriage. Whatever else a person with a learning disability may be inhibited from achieving, forming relationships is not one of them. It is unsurprising, therefore, that it unambiguously concludes that people with a learning disability have as much right as anyone else to form sexual (and other) relationships and to marry, whether to another person with a learning disability or not. In particular, it begins from the statement that *"The Church recognises marriage as a covenant between two people in the sight of God"* (General Synod, 2009, p26). Nevertheless, it runs into difficulties by accepting too many of the traditional assumptions about the nature of marriage. In consequence it is forced to strike a warning note for those supporting such proposed marriages, especially in the light of the Mental Capacity Act 2005, which requires particular procedures to be followed if there is doubt that a person has the mental capacity to enter into marriage contract.

A particular approach is taken by the L'Arche organisation, founded by Vanier, which brings into a single community both carers and those cared for:

Today, forty-four years later, there are 134 such communities in thirty-five different countries. In these communities men and women with disabilities can develop in a spirit of freedom. We live together – those with disabilities and those who have a deep and sometimes lasting relationship with them" (Vanier, 1998, p2).

Nouwen, a spiritual writer, joined the organisation in 1983 and has written about his experience, especially in a community in Toronto.

The notion of identifiable communities has been a challenge to the way in which state care for people with a learning disability has evolved over the past few decades. From the large hospital-based institutions, a major break was made in the 1980's when they were quickly replaced by *Care in the Community*. Whilst this transition was not without

its difficulties (Audit Commission, 1986), it remains true today that most care is based on the principle that it should be delivered as close to a person's 'normal' home as possible. Even where residential care is provided – most often for those with the greatest degree of dependency – the move has been to small groups styled as far as possible on a domestic scale. Professional philosophy towards such care puts a focus on individuals, based on their specific needs and choices with the care given by people whose own views are, as far as possible, removed from the operation. With a very limited boundary (mainly legal and some ethical considerations) the role of the professional carer is seen to be to enable the individual to achieve what they want to achieve.¹

Both Vanier and Nouwen start from a victim base: Vanier writes that he “*discovered the plight of men and women who had been put aside, looked down upon, sometimes laughed at or scorned*” (1998, p1). This creates the danger that it encourages individuals to accept the victim mentality – both carer and cared for. In the process, undue dependency can be allowed to develop – seeking to develop the greatest degree of independence, taking into account individual levels of ability – requires the carer to draw back from encouraging unnecessary dependency on them.

They also put a clear emphasis on the benefit to the carer of working in care. Nouwen writes:

Looking at the people I live with, the handicapped men and women as well as their assistants, I see the immense desire for a father in whom fatherhood and motherhood are one. They have all suffered from the experience of rejection or abandonment; they all have been wounded as they grew up, they all wonder whether they are worthy of the unconditional love of God, and they all search for the place where they can safely return and be touched by hands that bless them (1994, p139).

This, sadly, denies the lives of many people who are living comfortable and fulfilling lives with people who accept them for what they are more than for what they are not. Swinton (2003) highlights the l'Arche theology as one in which “*people with developmental disabilities represent the poor*”. However much this group of people may currently be inappropriately disadvantaged by society, this attitude risks reinforcing the marginalisation permanently. Rather, we should be seeking to change society so that no-one is *a priori* considered to be 'poor'. Philosophies of care have to resolve the inherent tension between short-term alleviation of problems with the long-term aim

of eliminating them. It may not always be readily possible pursue both simultaneously.

However, we do need to consider whether there are – or should be – special rights that accrue to adults with a learning disability. Marshall And Parvis (2004) examine in detail the basis on which Children's Rights are founded, formulating rights for those who are disabled, where the main emphasis is on those with a physical disability, is a very different process for it must be assumed that the people to whom the rights relate are adult, have their own views about what is happening to them and are not specially different in their ability to articulate their opinions and claims.² They may, however, lack power to assert their rights and, in that regard, need specific protection against those with greater powers.

The situation for adults with a learning disability has some elements of both of these but, equally, is also very different and any specific approach must avoid the mistake treating adults with a learning disability as if they were still children.

One of the over-riding difficulties is that we must ensure a clear delineation of those who are entitled to such specific rights. What, in this instance, do we mean by having a learning disability? Are there boundary disputes which could become important if rights are granted which are different from those who do not have a learning disability?³

From Marshal and Parvis (2004, p227) we should consider the following possibilities:

- adults with a learning disability do not have some of the rights of other adults
- adults with a learning disability have exactly the same rights as other adults but may need assistance in accessing or enforcing them
- adults with a learning disability have different rights from other adults which may or may not be in addition to those of other adults.

Formulating rights always entails specifying which authority is responsible for guaranteeing those rights. Frequently, it is considered right and necessary for the state to make proxy decisions on behalf of those deemed incapable of making them for themselves. However, there is a strong presumption in favour of permitting and enabling the individual to make their own decisions and that they have a right to

support in achieving this. But how does this tension between the state and the individual sit within contemporary Christian theology where a possible third dimension intervenes – the right of the church to make prescriptions about human behaviour?⁴

Of course, this presents two possibilities:

- Church laws prohibit rights established by the state
- Church laws allow rights denied by the state

To what extent should the church allow its thinking and its legislation change in the light of the society around it? In his opening lecture in Truro Cathedral for the 2005 Lent Lectures series “Faith in a Civil Society” Ind argued that a theocracy is as likely as a civil autocracy to act against the rights of the individual. Whilst he stopped short of suggesting that Christian thinking should be moulded by its cultural context, he failed to indicate where the boundary lay or how it could be determined. “*Render to Caesar that which is Caesar’s and render to God that which is God’s*” (Luke 20:25) may have been a neat escape from a cultural conundrum two millennia ago, but it does not absolve each generation from needing to wrestle with its application.

Within the context of a Christian theology in which it is inherent that all individuals are equal before God, it is almost self-evident that the response to Marshal and Parvis’ choice has to be that adults with a learning disability have no less rights than everyone else and that society has a duty to enable them to enjoy those rights, however uncomfortable that at times may become. This may result in establishing a formulation of rights specifically relating to the circumstances of people with a disability.⁵

5.2 Spirituality

We need to consider whether the existence of a learning disability in an individual necessarily affects the way in which they perceive spiritual matters. If we adopt Eiesland’s approach then the answer is likely to be yes, but it seems unlikely that such a conclusion will stand scrutiny. Therefore we may need to look again at how Eiesland derives her conclusions and devise alternatives.

Human Disability and the Service of God (Eiesland & Saliers, 1998) collected a number of experiences in seeking to adapt religious experience in the light of Eiesland's view that people with a disability should be given equal opportunities within the full gamut of spiritual activity. Eiesland writes:

The disability movement has at its core contested the moral meaning of disability, declaring people with disabilities to be a minority group with a distinct culture. Whether or not they agree with this definition, religious leaders ignore the moral implications at their peril (1998, p224).

In some ways this agenda maps onto Gutierrez's distinctions for the liberation agenda but it is not yet clear that a liberation theology is the best basis for tackling the learning disability situation. Early liberation theologies focus on removing a deficit in the human condition, such as the relief of poverty. Later, this became a search for a political as much as a theological agenda, seeing the relief of poverty in an analysis of the structure of society.

In the case of learning disability we are not seeking ways of removing that condition but rather to change those aspects of society that limit the achievement of the potential which is within each human being. In some ways this is much harder than when dealing with situations of poverty. In that context the Christian can respond, however unrealistically, with a determination to eliminate those conditions. The task here is to find ways of accepting the conditions and to absorb the existence of people with a learning disability into the mainstream of spiritual life. In some ways, this task is closer to dealing with feminist or racial issues, where theology does not seek to ignore the colour of skin or biological gender differences.

There are practical issues to do with spirituality, the way and the extent to which a conceptual expression of God and his effects can be understood by people with a learning disability. For example, we may need to decide whether such a person must understand the finer details of what happens in the Eucharist before they are admitted to communion. If it is accepted that there is a sacramental benefit from allowing people with a learning disability to partake in communion then we emphasise the role of God acting through the sacrament. At the same time, we have to address a concern that is manifest in the discomfort that some find in very young children being allowed to receive communion. "How can they fully understand what they are doing/what is happening?" is a question that may equally be raised in relation to people with a

learning disability. Yet, do any of us *fully* understand? It may not be easy to set minimum requirements of understanding.

But this highlights the tension between mind and body which is often at the heart of how to define spirituality. Whilst we sometimes use expressions that suggest we can worship God with, through and in our bodies, the practical reality of training both as a catechumen and as an ordinand, is unashamedly cerebral. It is as if we can only be a believer if we can understand - raw emotion is not enough.

Past attitudes which have ignored the need to include people with a learning disability can no longer suffice and we must look to an evolution of the general case, just as much as an understanding of the specific.

5.3 Evolution and Creationism

I stated earlier that modern understanding of evolution means that it is no longer acceptable to see disability as the result of sin. However, it is perhaps necessary to look more closely at this assertion in the light of current debates about Evolution, Creationism and Intelligent Design.

As long as humankind has thought and written about the origins of the world, the Creation Story has been the backbone of belief and, until Darwin, understanding. In the absence of any proof to the contrary, most people, including natural philosophers, were content to accept the notion of a 'beginning' that was a finite time in the past and which was the consequence of intervention from some other being. The Bible is not alone in recording Creation stories – indeed it includes two distinct versions.

Darwin and others who developed the *Theory of Evolution* were largely satisfied by a process that traced evolution back for an indefinite time. The theory does not depend on a need for a beginning as it addresses only what happened thereafter, even though Darwin's main publication was entitled *The Origin of the Species*. The mechanism which he catalogued is effective whether or not there was a single ancestor, although Darwin believed this to be so.

it does not seem incredible that, from some such low and intermediate form, both animals and plants may have been developed; and, if we admit this, we must likewise admit that all the organic beings which have ever lived on this earth may be descended from some one primordial form. But this inference is

chiefly grounded on analogy, and it is immaterial whether or not it be accepted (1872, p425).

Later DNA studies suggest that a single ancestor, Mitochondrial Eve is possible, certainly a very small number (Cann, Stoneking & Wilson, 1987).

In later editions of his work, Darwin introduced the phrase *Survival of the Fittest*, characterising a mechanism that selected the best of random variations which later work showed to be the result of genetic modification, the more successful leading to evolution.

A literal scriptural adherence, notably from United States, has led to the promotion of the concept of *Intelligent Design*, which accepts that the world has been evolving for longer than a strict Creationist would argue (from a surface reading of scripture), but that the process is neither entirely random nor without external intervention. However, there are many who fail to understand the true significance of stochastic processes. Something which at an individual level may have randomness, can also belong to a population where the characteristics are quite deterministic. This approach underpins much of 20C physics, highlighted by the Heisenberg Uncertainty Principle.

Whilst in many contexts, Evolution and Intelligent Design can live alongside each other – so long as Intelligent Design does not purport to be a scientific theory – there are significant problems for Disability Theology, especially so in the case of learning disability.

Most, but by no means all, instances of learning disability have their origins in genetic variation. Certain specific syndromes, such as Downs Syndrome, have already been traced to genetic ‘faults’ whilst there continue numerous research investigations to find similar explanations for other readily identifiable syndromes.

Even the non-specific category of learning disability (those who fall below a given level of intellectual capability) can reasonably be included within such an explanation – namely that intellectual capability is, in part, the result of randomly inherited (genetic) characteristics.

In the context of evolution, such variations can be seen as a fact which has enabled species to evolve and to withstand changes in circumstance. It is not necessary to

attribute blame for what is seen to be a negative characteristic. However, the resulting tendency is to treat humanity as a single entity and that genetic variation is to the benefit of that entity. Clearly, in the case of individuals, such variation is either disproportionately to their benefit or dis-benefit.

The existence of such an evolutionary mechanism is, on the other hand, a greater challenge for Intelligent Design as it quickly returns us to the point at which it seems that the Intelligent Designer has acted malevolently towards those individuals who are disabled, unless one restricts the design process to a one-off activity at some remote point in time. Consideration then reduces to the general issue of the existence of evil or calamity, which is well outside the scope of this thesis.

A positive theological approach to learning disability, even more than physical disability, requires something better than it merely being collateral damage in the progress of humanity.

5.4 Disability as a Divine Opportunity

John 9 provides an insight into the attitudes towards disability at the time of Christ, although the details present some difficulties in the context of Disability Theology as it has evolved. The story comes at a time when Jesus is more openly confronting the authorities in Jerusalem – the reference to the Pool at Siloam identifies the locus of action. The unnamed man was blind from birth. Not just blind, but from birth. In giving sight to the man, Jesus seeks to challenge the authority of scripture. Not only does he knead clay – work on the Sabbath – but also confronts the assumption that the man will never see and that he cannot speak for himself.

But we are not directly concerned with this aspect of the story so much as what John records Jesus as saying about the reason for the man's condition. It is well known that, at the time, deformity was assumed to be the result of sin – a view that still prevails in some quarters even today (BibleGateway, 2007). Key to the particular case was the fact that the man had been blind from birth. It was not an acquired defect and it was difficult for the experts to suggest that it was his own sin that was the cause.

As an aside, if life begins at conception, as is now the view taken by some, then is it so obvious that sin cannot occur before birth? If we say that a baby at birth is without

sin, then its existence up to that point must have been intrinsically different from the human life which is to follow. Of course, the degree of sin and its exact detail are unlikely to be great, but the issue of a watershed at birth must be important to a number of debates. It certainly was in the case of the man born blind.

Not only were those born with a deformity barred from priestly functions (Lev 21:16-23) but (Dorman, 2007) there was wider discrimination and exclusion of people with physical disabilities from the community at large (Schipper, 2006). Other contemporaneous material contained similar proscriptions - see Dorman (2007) for evidence from the Qumran Scrolls. It is also interesting to note her comments about what happens to society when disability is widespread:

Modern studies of negligence of disability in ancient literature and modern studies is remarkable, because disability may have been more widespread in the period under consideration than it is today. A large part of the population must have had some kind of what, nowadays, would be regarded as a disability. Apart from congenital disabilities, chances were high that people would become disabled due to, for example, improperly healed bone fractures, warfare, childbirth complications, diseases, malnutrition, or ageing. Of course, there were no glasses, hearing aids, operations or other aids to solve some of the most prevalent physical limitations that are not considered a disability today. Only the rich could afford a doctor and for that reason even a small accident, such as a broken arm or leg, or a dislocated shoulder, could result in a permanent disability or physical deformity. It is intriguing to notice that there is so little information about such a common aspect of human life. (2007, p4)

Several biblical stories indicate how disability led to destitution and abandonment by society. Indeed, in the case of the blind man, the onlookers asked, “*Is this the man who used to sit and beg?*” (v8). However, it is the words that this “*happened so that the work of God might be displayed in his life*” (v3) which are of particular relevance here. Jesus clearly rejects the thesis that the *cause* was the sins of the forefathers but there is a clear suggestion that God is the cause. The reason for the act of God is so that God can then use that person as a means of demonstrating his love for the world.

The text becomes even more difficult when we realise that the apparent purpose of God in making this specific man blind was so that he himself could ‘cure’ him of his blindness. A perhaps unintended side effect is to reinforce the view that those who are disabled are *sufferers* of their disability and that there is an eternal expectation of being *cured*.

It is important to recognise that this line of thought seems to imply that the essence of a human lies beyond the physical frame and that removing a disability does not create a different person. Of course, doing so may liberate them to be able to do things previously not possible. The blind man may now be able to work and support himself rather than have to sit at the gate and beg. Nevertheless, this is a matter of degree not essence.

Turning now to the matter of learning disability, we begin to see that such an approach has real problems. Removing the learning disability strikes at the heart of what is distinctively human and any substantive change to that aspect of a particular human is to change their whole nature. Even more than with physical disabilities we have to recognise that most individuals do not have a specific cause such as a chromosome abnormality, but rather are simply at one end of a (multi-variate) spectrum of capability. Their intellectual capabilities are not essentially different but are diminished in respect of their effectiveness.

It is even unclear what might be meant in this case by a 'cure'. Would we expect that God could modify all those who fell below a certain percentage of the average to bring them above that minimum level? What then does that do to the average? The only outcome here is that ultimately everyone is undifferentiated with no-one either above or below the norm. Not only does this intuitively seem unlikely but it strikes at the heart of basic Christian thinking as it would leave little room for individual choice and response to the Gospel message.

If this were not complicated enough, it becomes more so when we take into account the fact that mental capacity is not a uni-dimensional characteristic, despite manifold attempts to produce a single measure for it – so-called intelligence tests. A particular case is that of Asperger's Syndrome in which individuals may, in one attribute, be so deficient that they are impaired in their ability to lead a full social life unaided but that in other respects they may well have above-average capabilities in reasoning powers.

Equally, in cases of those classified as learning disabled by virtue of their overall intellectual ability and not through specific genetic factors, they may well have attributes which are above-average for the population as a whole. Here we can look at the ability to form relationships, to be loving, to be sympathetic, to be loyal, to be

trustworthy and honest, to be diligent. None of these need to be related directly to intellectual capability and there are many instances of individuals who could act as role-models to others if only we could set aside our prejudices about people with learning disabilities as being wholly dependent people.

Returning to John 9 we do however find an important contribution to the attitude towards learning disability, namely the lack of blame for the cause of the condition. All too often, even today, there is a deep seated guilt felt by the parents whose child is designated as having a learning disability, a guilt which continues to affect their relationship throughout life. Jesus makes it quite clear that we are who we are, not through the fault of individuals or even ourselves and that we are all the product of God's creation. Equally it is unhelpful to conclude that it is God's 'fault' – in the sense of having fallen short of some higher standard of behaviour as this would assume that, in better circumstances, God could have avoided creating disability.

Since we cannot seriously look for a universal 'cure' for learning disability, even if we could screen 100% successfully to avoid genetic defects, it is vital that our theology should seek a positive response to the existence of variety – what in the margins we call disability. Clearly there is no particular blame attached to such conditions which are merely the product of defining a spectrum and we should therefore seek to approach people with a learning disability in exactly the same way as those who happen to be at the other end of the spectrum. All too often we revere those with a particular skill which exceeds most of the rest of the population, failing to recognise that they have no more merit in being born there than those at the other have a blame attached to them. What we can properly do, however, is to look at how each of us responds to the condition in which we are born, how we use that ability and what sense of custodian responsibility we adopt.

In this way we can begin to make John 9 have a direct relevance for us all – not just for a small minority. It is the variety in the human condition which is God's expression of love, not as an opportunity for divine intervention. It is the variety rather than the robotic that gives us the opportunity to respond to God's love in a way that the rest of creation cannot.

5.5 *Eliminating Learning Disability*

We have already looked at how we – the church, society, individuals – should respond to those who already exist and who have a learning disability, but Hauerwas raises the question about whether it is right to seek to eliminate learning disability for future human beings, (Swinton, 2004) expressing scepticism of some of the aims of modern medicine, aligning them with those of Utilitarianism, which he rejects (Coffey, 2009, p12).

This article is full of confusions and inconsistencies, but we must be at least a little tolerant since it was written in 1986, before the Healing Myth was exposed by writers such as Eiesland (1994). Despite a few disclaimers that it is not his intention, he fails to escape from the assumption that ‘the retarded’ are suffering from their condition. Indeed, he examines at some length the theology of suffering, asserting that it is in the essence of humanity that we suffer.

Yet he draws the bounds of what he means by suffering so wide that one is left wondering where it is limited. In particular, he includes ‘need’, a lack of assets or resources, as being part of suffering. But, since half of the population lack assets or resources, in comparison with the median, this is clearly an unhelpful direction to take. Unless we arrive at some utopian world in which we are undifferentiated in our possession of wealth, there will always be those who have less and those who have more.

Here, then, we arrive at one of the main inadequacies of Hauerwas’s analysis. He is so obsessed with a consideration of the profoundly disabled, that he loses sight of the fact that many of those we call learning disabled earn that label through no specific genetic condition or through having experienced an adverse incident, such as brain damage or oxygen starvation during birth.

To seek means to prevent the genetic or other conditions which can give rise to a learning disability cannot be other than desirable in principle, though we must always be vigilant that the *means* remain acceptable and are not used to justify them. Hence, we would not consider that the elimination of learning disability should be achieved by killing children at an early stage when they have been diagnosed.

But if we followed too closely the line taken by Hauerwas we would also fail to develop birthing techniques that reduced the possibility of oxygen starvation, on the basis that somehow having people in the world with a learning disability was enriching for humanity. In reality it is not the existence of people with a learning disability that enriches us, but more the way in which the rest of the community react and interact with them, along with the rest of the community (Swinton, 2004, p104). Those who work with disabled people are not, by that reason alone, especially meritorious.

Hauerwas is driven to the conclusion “*Still I think that something is wrong with the general policy that seeks to prevent retardation*” (1986b, p89). In the absolute, this cannot be right. To deny action to diminish the extent of disability means – ultimately – to encourage its existence since a point will be reached where we have consciously to refuse to take an action which we know will reduce the scale of its existence. Inaction can be as wrong as action; refusing to prevent disability can be tantamount to creating it. Just because we value the humanity of everyone, regardless of their degree of disability, does not justify seeking to encourage its existence.

But perhaps the biggest defect in Hauerwas’s essay is fundamental and practical: is it possible to eliminate learning disability? We may be increasingly successful at preventing a widening range of genetic defects and in ensuring safer birthing techniques, but we are left with the inevitable fact that human intellectual capability is a variable. As we have already identified above, many of those labelled as having a learning disability do so because they are at one end of the ability range. Even ignoring the problem that ability is a multi-factorial issue which cannot readily be put onto a single spectrum, the boundary line is not only arbitrary but may change through reasons unrelated to those most directly affected by the change. Even if we eliminate all genetic causes, there will always remain those whose capabilities lie beyond a specific criterion. Unless we devise an entirely different concept of what we mean by disability, the possibility that they can be eliminated simply does not exist.

Hauerwas does, however, correctly conclude that the term suffering can only be used of people with a learning disability under very carefully constrained contexts. Firstly, as he recognises, many people with a learning disability will not consider themselves to be suffering as a result of their condition, any more than the rest of us would accept

that our individual variations amount to suffering. I may not be able to afford a huge mansion or a top-of-the-range motor car, but I cannot really consider that to be a matter of suffering whereas a liberation theologian rightly considers an enforced poverty that results in serious malnutrition to be a suffering that we should seek to remove. As a result, theological assertions regarding the existence of suffering, as Pailin (1992) recognises, are of scant use in developing a theological response to learning disability.

But we can use the term *disadvantaged* and thus tap into developments, such as liberation and rights, which have enabled theological thinking to underpin a desire to address the needs of particular people. Using the term *disadvantage* also helps us to understand learning disability as a relative matter, not one of essential difference. It is then no longer acceptable to establish rights or constraints with respect to disability which are hard and fast, a reflection of a difference in essence.

In this way we cannot but reject Hauerwas, “*That such fellow-feeling is possible does not mean that they are 'really just like us'. They are not*” (1986b, p103). There can be no ‘them’ and ‘us’, we are all part of ‘us’. In her response, Morgan also demurs, “*The aspects of the essay with which I am least comfortable are those which stereotype people with learning disabilities and their families*” (Morgan, 2004, p111). Yet Morgan agrees with Hauerwas in being disturbed with developments aimed at screening for certain defects at an early stage after conception.⁶ What is not clear is how they would react if a drug were discovered that, taken by a mother during pregnancy, would guarantee that their child would be a genius. Would it be immoral to take such a drug on the basis that it is interfering with God's will to create some of us more able? Would, on the other hand, it be immoral to fail to take the drug and could the child subsequently sue its mother for negligence?⁷

Morgan tends to support the association of suffering with learning disability but the inadequacy of her and Hauerwas's position is highlighted by looking at the example Morgan cites: “*I take Peter (her disabled son) as an example. ... I imagine he was hurt when parents moved their children away from him as he paddles at the edge of the sea*” (2004, p109). Of course, it is not possible to deny the existence of such actions, they are all too familiar to those who work alongside those with a learning disability. But to seek to state this as something peculiar to learning disability is wrong and we only have to re-

examine the quotation above in the context of a child who is ill-dressed or who has poor personal hygiene. Prejudice exists throughout society and, because it is prejudice it is wrong, but we can only conclude from that evidence that children with a learning disability are perceived as a minority in a way that has also affected those with a different skin colour, whose parents are from a different socio-economic group or who have a different religion.

Importantly, if we succeed in educating society not to treat people with a learning disability in a discriminatory manner, as described above, then we do not alter the essence of the condition, only some of the effects of it.

5.6 Is God Mad?

Eiesland (1994) wrote from the perspective of a person with a disability, seeking to establish the notion of *The Disabled God*. Much of her thesis is political – seeking to create an improved position in society for people with a disability – and there is also a strong liberation theme.

She describes her vision of God in a sip-puff wheelchair. “*Not an omnipotent, self-sufficient God, but neither as a pitiable, suffering servant*” (1994, p89). She goes on to establish the concept of “*the image of Jesus Christ, the disabled God*” This notion has been taken up by others as a means of helping people with a disability to identify with God, especially in the form of Christ.

Isherwood raises the possibility of extending this approach to other human categories, in particular to those with a mental illness. (2003) This gives us the possibility of *The Mad God* as a catch phrase.

If we also then consider the case of people with a learning disability we presumably must also admit the possibility of a vision of God as learning disabled. Swinton (2003) raises the possibility that Jesus might have Down's Syndrome.

There are problems, however – if God is learning disabled, how disabled? If we go to the extremes comparable with a sip-puff wheelchair we are left with a God who has little or no ability to act rationally, to communicate other than in the most basic of forms and who can establish very limited relationships. Is this a God that liberates? Is

this a God who can create adoration and respect? Is omnipotence inherent in being God? At the same time, the image challenges us to consider how far our faith practices have become cerebral rather than emotional and whether this is either necessary or appropriate.

Of course, if we accept that God truly became human in the form of Christ, then we must admit the possibility that he can also become human in the form of the most disabled of humans, just as much as in the highest achieving. However, this vision creates as many problems as it resolves.

Pailin begins with *“Handicap is not necessarily a form of suffering”* (1992, p ix). He goes on to identify that disability is more often a cause of suffering to others than to the person with the disability themselves.

Reacting to his personal experience with a particular young baby Alex, whose short life was dominated by very substantial disability, led Pailin to re-appraise his view of salvation, especially as humankind’s need for salvation is perceived through their relationship with God.

Pailin rejects the traditional models of salvation in terms of ransom, propitiation, vicarious sacrifice and satisfaction of honour as irrelevant to human self-understanding today. Instead he talks of *“the saving activity of God is the twofold activity of preserving what has been experienced and inspiring further expressions of aesthetic value ”* (1992, p11).

Alex leads Pailin to say:

This view of the divinely recognised worth of human beings may seem appropriate in the case of people who have the opportunity and the ability to act creatively. ... What is worrying about this way of understanding human salvation is that it is in danger of sanctifying the self-regarding attitude of the members of an artistic and intellectual elite who despise ‘ordinary people’ because they do not share their supposed talents (1992, pp 11-12).

Whilst most of the content of Pailin's book seeks to look at what we can mean by the ‘worth’ of humans whose capabilities are very restricted by their disabilities, it is important to pick up his recognition that judging God by the standards of humanity – both in terms of the nature of God and God’s saving power – is not valid.

Contemporary society has within it a contradictory tension. On the one hand there has been in the last fifty years an explosion in the expression of the rights of every person in a society, whether to express their views, to expect benefit from society or to seek the right to partake in its control and governance. Crucially encapsulated in the Human Rights legislation, it is widely accepted that we all have basic rights regardless of who we are or what we have done.⁸

On the other hand, society has increasingly become one in which people are judged and rated according to their achievements – especially those which can be measured in terms of wealth or column centimetres in newspapers and gossip magazines. In this context, people whose achievements are limited by their physical and mental disabilities are inevitably seen as a cause for pity rather than responsibility, rights rather than duties.

So, is God mad? Is God disabled? We need to consider whether such questions are well-formed. The key, perhaps, lies in recognising that these are all attempts to anthropomorphise God, trying to turn God into an image of humanity, rather than the other way around. We can only see God reflected, perhaps poorly and distorted, by looking at the human condition. What we most definitely cannot do is to extrapolate our condition to being that of God's condition. God is neither disabled nor mad. Otherwise we treat God as human and, more specifically, to be limited to human capabilities.

Our perception of God has to transcend these limitations, recognising that, as a consequence, the concept of God is a will o'the wisp, forever just escaping our comprehension at the very moment when we think we have begun to nail it down in our collective consciousness. Uncertain Theology (see later) will help us capture the basis on which we can evaluate this apparent lack of precision.

Seeking to define God as 'like us', having only our characteristics, is an arrogance that must be set aside in favour of a willingness to say that we know little, maybe next to nothing, about God and yet still be able to put our trust in God, believing in God's existence and accepting the salvation which is wrought through the death and resurrection of Christ.

As Pailin says in his conclusion, *“The first step towards the liberation of any person is to give them dignity. This is what God gives to each of us, whatever our condition”* (1992, p184). And then he turns Eiesland’s approach on its head by saying finally, *“It is such experience of love (the person-to-person contact of shared love) that points us through and beyond our human encounters to God, and to God’s encounter with each of us”* (1992, p184).

In this way we can then begin to recognise that far from needing a theology of disability, what we need is an acceptance that all of us are disabled, in the sense that by comparison with God we are all limited in what we can achieve and that our achievement is not the way to establish our relationship with God. Instead we must focus on the way in which God’s achievement affects us and leads us to a better understanding of how we should interact with others.

5.7 Incarnation and Learning Disability

‘God became Man’⁹ is an essential part of the incarnational creed. It is a perennial question whether God became human in all the defects of humanity. It may be said of Christ that he was “Man without sin” but, at least in the times when that was first stated – when disability was closely linked with sin as an explanation for its existence - it would mean not disabled! God clearly did not become human in every particular.

But the danger in some quarters is to move from *God became Man* to *Man became God*. This is particularly evident when we examine the extent to which marriage is a paradigm for our understanding of God. This is distinct from Augustine’s *“God became man so that man might become a god”* perhaps meaning that the incarnation gives man access to God:

He enters by the door who enters by Christ, who imitates the suffering of Christ, who is acquainted with the humility of Christ so as to feel and know that, if God became man for us, men should not think themselves God, but men. He who, being man, wishes to appear God, does not imitate Him who, being God, became man. Thou art not bid to think less of thyself than thou art, but to know what thou art. (Augustine of Hippo, 424, para 4)

Isherwood & Stuart ask *“If the body is given the space and power to speak what will be the consequences for both the body and theology?”* (1998, p22). In any event, their interpretation of incarnation is not a once-for-all event, but a continuous here-and-now activity. Something that cannot be escaped by shutting it inside an historical box.

Saying that the body (in all its manifestations) is a window on God does not mean that we can discern all that there is about God by looking at humankind, even if all that we know about God is found by looking at the world around us. To assert that “God is in ...” is not the same as “God is ...” To say that God is in a person with a learning disability is a far cry from establishing that God is learning disabled.

Isherwood and Stuart repeat, “A human being is made in God’s image” (1998, p57) and, just previously, “If there is a huge ontological gap between human beings and God then human beings would of course have needs and behaviours which God did not”. In a reference back to Eiesland, they say, “On the other hand disabled theologians have reminded us that at the moment when Christians perceive who Jesus really is, that is, at his resurrection, he is revealed as the disabled God, bearing the marks of rejection and injustice”.

We must take care not to confuse ‘disabled’ in the sense of ‘unable to do’ with humans having certain characteristics – which all vary and are all finite.

But surely the resurrection, as distinct from crucifixion, shows the marks of acceptance and justice – that is, that whatever humans may do to each other, and how their treatment of each other is, at best, defective in some way, God both accepts and treats justly.

Is incarnation used in the sense of God becoming human, or God being revealed in the human? In relation to the way in which we will need to assess the paradigm role of marriage and its relationship to learning disability, how we resolve this ancient dilemma is significant. If the incarnation (accepting its on-going formulation) is revelatory rather than ontological then we will be better placed.

The Catholic Encyclopaedia (2007) states:

Catholics hold that, before the Resurrection, the Body of Christ was subject to all the bodily weaknesses to which human nature unassumed is universally subject; such are hunger, thirst, pain, death. Christ hungered, thirsted, was fatigued, suffered pain and death. ... All these bodily weaknesses were not miraculously brought about by Jesus... The Fathers deny that Christ assumed sickness. There is no mention in Scripture of any sickness of Jesus. Sickness is not a weakness that is a necessary belonging of human nature. It is true that pretty much all mankind suffers sickness. ... Athanasius gives the reason that it were unbecoming that He should heal others who was Himself not healed. ... The reasonableness of these bodily imperfections in Christ is clear from the fact that He assumed human nature so as to satisfy for that nature's sin. ...

As Christ did not take sickness upon Himself, so other imperfections, such as deformities, which are not common to mankind, were not His. St. Clement of Alexandria, Tertullian, and a few others taught that Christ was deformed. They misinterpreted the words of Isaias (which) refer only to the suffering Christ. Theologians now are unanimous in the view that Christ was noble in bearing and beautiful in form, such as a perfect man should be; for Christ was, by virtue of His incarnation, a perfect man (Catholic Encyclopedia, Online)

This extract, which runs quite counter to Eiesland's approach, draws a distinction between weaknesses of humanity and defects, such as sickness. But sickness is a natural consequence of being human, disability a consequence of being human. Genetic processes and the mechanism of evolution inherently lead to disability. The re-introduction of the notion that there is a link between sin and sickness (and, by extrapolation, disability) now seems unacceptable.

5.8 Body Theology and Learning Disability

The origins of *Body Theology* lie in seeking to solve some of the problems raised by feminist thinking, but it also brings insights relevant to a theological perspective on learning disability.

Stuart & Thatcher recognised this:

Body theology affirms the body in the midst of its decay and mortality. A body-affirming model of Christian care for the elderly and disabled would at least involve providing appropriate sex and body education for the young disabled, ensuring that disabled and elderly people have privacy to be intimate with spouses (1997, p104).

They also recognise that meeting the needs of disabled people, especially those with a learning disability, may involve affirming practices which mitigate the difficulties in realising a sexual experience in a conventional heterosexual married relationship. For example, they see the fact that people with a learning disability may need to be encouraged to view masturbation in a positive light as evidence that such activity is not to be universally condemned, “*Masturbation need not be understood as an inferior type of sexual activity to be engaged in only when sex with another person is not possible ... Like any other sexual ‘act’ masturbation takes on different meanings in different contexts*” (1997, p102).

They also raise the issue that sexual activity involving a person with a learning disability is difficult, if not abhorrent, to many people. However, denying people with

a learning disability the opportunity to express their sexuality is tantamount to saying that sexuality is not an essential part of humanity. If we adhere to the view that sexuality is a God-given essential part of human nature then we must seek to resolve this dilemma for those with a learning disability and, at the very least, not deny them the means of expressing themselves in sexual behaviour, whether or not it is family-forming or even within a formal heterosexual marriage and this is confirmed by *Opening the Doors* (General Synod, 2009).

Pope John Paul II used a series of 129 addresses to present a theological view of the body which is quite different from that above. He based much of the detail on the fundamental assumption that men and women are unambiguously differentiated and distinctive. By using the term 'complementarity' he sought to give such distinctions a positive gloss, not least in order to provide fresh support for traditional views. Nevertheless, he sees marriage as a relationship between equals. Yet, John Paul II builds many of his arguments on making sexuality an integral and necessary part of what defines humanity distinctive from other living forms, as well as an essential focus for a relationship with God. To corrupt the human relationship is to corrupt that with God. Consequently, he struggles with the Augustinian co-location of sin and sexuality. (Pope John Paul II, 1979)

The theology set out in this series has been analysed in depth, such as by Curran (2005) who highlights the difficulties which such an emphasis creates. He particularly criticises the pope for an 'seriously incomplete body theology', drawing attention to the absence of the role of self in a sexual relationship, the existence of lust, sexual activity for the purpose of pleasure (self) and gratification (other) rather than self-consciously and exclusively for procreative ends. *"I have further difficulties with the papal emphasis on and understanding of complementarity. Such an emphasis means that men and women who are not married are not complete and lack something about their humanity. But this obviously goes too far"* (2005, p192). He also points out that the pope failed to acknowledge discontinuities from the past in his theology and so making greater claims for continuity than is justified by historical evidence.

One of the consequences of treating the body – and a very specific view of sexuality – as an idealised vision of the relationship with God is that it restricts God to a narrow

spectrum of possibilities. Instead, if we celebrate and relish the infinite variety that is yet human, then we open ourselves to a richer relationship with God.

The introduction of the complementarity notion brings with it a justification that it is possible to treat individuals differently based on inherent characteristics (Curran, 2005, 192). If it is acceptable to consider men and women differently (and this is necessary in order to justify a gender-specific priesthood) then it is but a short step to discrimination based on, for example, whether or not they are considered to have a learning disability. Whilst it is not possible to ignore sexual differences, the inclusive basis of the gospel message makes it imperative not to use such a distinction – and more especially gender differences – as justification for a wider discrimination.¹⁰ The same applies to factors such as disability. We cannot ignore the implications of a learning disability on parenting skills but our inclusive agenda leads us towards a responsibility to avoid using that fact further than is strictly necessary. In particular, it would be wrong to assert that anyone labelled as having a learning disability is to be denied Christian marriage whilst also asserting an unlimited right – or even duty – to the rest of the population.

Our extensive consideration of the theological implications of learning disability as a precursor to the particular matter of marriage theology is an example of our Evidential Theological methodology. What we learn about learning disability sets constraints on any theology of the body.¹¹ In particular, we have underpinned our *a priori* position about inclusivity and the need to make our theology of marriage of universal application, dealing with special cases in a coherent, rather than exceptional, manner. We focus on what is common in each human body, as a locus for discovering God's interaction with the created world, rather than measuring the differences.¹²

Conclusion

It has been a part of much Christian thinking for a very long time that, just as God chose human form for the locus of incarnation and revelation, so we can continue to explore our perception of God through an evolving understanding of what our body is and how it 'works'.

- 1 The Mental Capacity Act, 2005 requires that, for people who need some assistance, there is still a presumption of capability unless shown otherwise.
- 2 The *Ashley* case noted earlier highlights the debate about how far it is permissible to restrict the development of a Learning Disability person into full adulthood, even if the person has substantial disabilities. In a full-page advertisement placed by Scope (a charity whose focus is people with cerebral palsy) they stated, “...everyone, regardless of their impairment or needs, has full and equal human rights. Central to these human rights is that disabled children should not be prevented from growing into adults through medical intervention.” (Guardian, 2007c)
- 3 Suppose that a resource (such as a charitable foundation or a state benefit) is made available for those adults with a particular syndrome. Access to those assets is thus mediated by the assessment of whether the condition actually exists in an individual. The question of definition becomes very important to those concerned. For example, the 3H Fund for Disabled People says on their web site, “... 3H Fund has a grant programme to assist disabled people (whether physically or mentally disabled) their families and carers, on low income, to organise a modest holiday for themselves ... Applicants are asked to complete an application form and submit it with evidence of disability and low income” (3H 2009)
- 4 Radical Orthodoxy has brought a new re-examination of the relationship between the authority of the church relative to that of the state.
- 5 The UN Convention of the Rights of Persons with Disabilities establishes a right to help specifically to enable them to raise children.
- 6 Since the original article was written, the issue of embryo selection on the same basis has become important.
- 7 This parallels the case cited by Morgan regarding the consequences of medical non-intervention.
- 8 Of course there are specific cases which continue to challenge this position when the results of its application are – to many, at least those who write the tabloid comment columns – counter-intuitive. Thus we have an outcry when people in prison seek to use the Human Rights Act to achieve particular benefits. (BBC, 2010)
- 9 Occasionally the gendered use of *Man* (with a capital M) is retained to reflect the historic linguistic practice which is clearly gender-inclusive.
- 10 In both cases, there are difficult boundary conditions to be considered and distinctions are not universally unambiguous in either situation.

- 11 In this case, intellectual capability is an inherent part of what constitutes the body.
- 12 This, of course, is not intended to deny the essential individuality of each person.

6. Marriage at the Margins : Three Case Studies

In this chapter we will examine the three specific contexts for marriage that we set out earlier. In general, each of these exposes weaknesses in existing marriage theology where the underlying characteristic does not bring historical baggage.

Having established that people with a learning disability have a right to marry, we now have to face problems which arise from the received understanding of marriage. Many concerns for a such a couple contemplating marriage relate to their ongoing needs for support. A corresponding concern for married couples generally might do something to reduce the rate of marriage and relationship breakdown.

The second area of consideration is post-menopausal marriage. The specific interest here is in the relationship between traditional theological views of marriage and childbearing. If we are to allow marriage where the woman is already of an age when she is physically unable to conceive, and it would seem impossible to argue against such marriages, then we have to face the fact that childbearing cannot be a pre-condition for a marriage to be Christian. Consideration is then given to other situations in which, either by choice or not, marriages are childless.

Much of traditional teaching about marriage was developed in times when children became economically active at an early age. There was not only a clear understanding about what parents were committing themselves to but also an unambiguous expectation that events would follow the sequence of marriage-sex-childbearing. In this chapter we look at the current social context as seen through statistics, primarily about the UK population. We shall find that not only is the above sequence rare but that many people entering into a formal marriage do so with pre-existing children. Consequently, there is a greater need to consider theologically and pastorally, at the

time of the marriage, not only marriage as a relationship between two people, but one which is already more complex.

6.1 Learning Disability Marriage

One of the important elements of a valid marriage is that of consent and the degree of understanding that is needed for consent. The Mental Capacity Act provides a basis on which people with impaired understanding can make legally binding decisions (Parliament, 2005). The Act defines its scope as people who lack the capacity to make a particular decision. However, we need to consider whether this is a sufficient basis for the church to declare a particular marriage invalid.

The problem is not unique to the Christian (or at least Catholic) interpretation of marriage. al-Hibri, reports that *“according to Islamic tradition, either the woman or the man can make the offer (of marriage) ... Finally, the consenting parties must have the legal capacity to do so or the marriage contract will not be properly formed”* (2006, p204). This would appear potentially to preclude some adults with a learning disability from forming a marriage contract.

For the Catholic church especially, the growth of annulment in the absence of divorce meant that there was a special emphasis on ensuring that all conditions for the marriage to be completed are properly established. One of the possible arguments for annulment is that consent was not given at the time of marriage. It would be very unfortunate if it were concluded that no person with a learning disability could be married because their consent could not be established to the satisfaction of the church or secular authorities.

Further, in the *Marriage Resolutions of the Convocation of York* adopted in 1938, one of the valid reasons for declaring a marriage null and void was *“that either party to the marriage was at the time of the marriage and unknown to the other ... a mental defective ...”*. It is not clear, and probably untested, whether this was intended to mean that where one party knew the other to have a learning disability then the marriage could be declared null and void. However, if this were possible, then surely the church should not have permitted it by conducting a service in which it allowed two people to enter into what was, in effect, a sham arrangement.

Subsequent resolutions of General Synod have modified the position taken in the separate York and Canterbury Resolutions primarily in respect of second marriage after divorce. *Marriage : A Teaching Document* appears to remain the current official position on various matters relating to the theology and practice of marriage arrangements within the Church of England. It states:

Sometimes a marriage never appears to have been 'real', perhaps because one or both of the partners was unfit for marriage psychologically or physically, or too immature to make the promises in full understanding. However, it is only in very restricted circumstances that the secular courts can annul such marriages, and in any event they do not account for more than a tiny fraction of marriages that break down today (HOB, 1999, p5).

It says nothing more on the matter, clearly assuming that it is no longer an issue of general significance.

Of course, one of the concerns of parents and carers when considering the option of marriage for a couple with learning disabilities is that of children. Two factors lead to the same concern: Firstly, there are some situations where there may be an enhanced risk of genetic defects, although this may be smaller than is often thought to be the case. (It would be considered unacceptable for the state forcibly to sterilise adults solely on the basis that the children are at risk of inheriting a genetic condition) Secondly, just as support for the parents is needed then there may be the need for even further input to safeguard the needs of the children. Some people may be concerned that if the parents have a restricted intellectual capability then this may result in under-stimulation and development of their children. Whether this is just a concern for those children whose parents have a learning disability, or is more widespread, is perhaps a matter for investigation, not least in the light of several child abuse cases.

A high profile case of a person with physical disabilities is that of Lapper (2005). Born with very abbreviated arms and legs, as a result of a congenital condition called phocomelia, she has challenged many of society's prejudices concerning the sexuality of people with physical disabilities. In particular, she has had to face criticism for her choice to have a child of her own. In addition to her physical condition (which means that she needs continuous care support), she had the additional challenge as a single parent.

In *My Life in my Hands* she recalls that soon after she became pregnant her partner put pressure on her to have an abortion; she rang her mother (with whom she had not had a good relationship) for support but received a negative response:

when I gave her the news she was especially negative about the prospect of me having a child. 'Why'd you get pregnant? How can you look after a child? You'll never cope. You'll never manage.' Those were some of her more polite comments, and the rest of the family essentially agreed with her (2005, p195).

Later she writes :

It's only society and the able-bodied who have a negative view about disability and who think it should be banished from the earth. Luckily for me it was not a crime to give birth to a disabled child, but there are disturbing current trends which suggest that it might be a possibility in the future (2005, p197).

She was all too aware that, in her case, modern technology could have identified her condition at an early enough stage for her mother to have terminated the pregnancy. In practice, she needed extensive assistance in looking after her own baby with very intrusive attention from Social Services.

In 2005, a statue of her by Quinn was placed on the Fourth Plinth in Trafalgar Square. At the time she modelled for Quinn she was eight months pregnant which added to the challenge to public opinions:

If it were political correctness gone mad, people wouldn't have minded when the statue of me was chosen for the fourth plinth. But they have minded because it's brought up people's prejudices: the fact that we're not comfortable with nudity, disability and pregnancy (Anon, 2004a).

Whilst this is an individual case of a person with substantial physical disabilities rather than a learning disability, it does sound an important warning that support from society to enable people to be parents is not to be taken for granted and there may be times when essential human rights need to be asserted. Of course, the obstacles faced by people with a learning disability who wish to become parents are considerable, regardless of whether they also have a physical disability.¹

It is, at this stage, worth noting again that there is no absolute definition which can be used to determine those who have a learning disability or not. This means that it is difficult to establish a basis for differentiating the human rights of people with a

learning disability from any other member of the population. Consequently, the right to form relationships of choice and to marry is something that it is, in principle, difficult to deny to couples where one or both have a learning disability. Yet, with appropriate support, such people have been able to achieve a lifestyle better than others who do not have a recognised condition. Nevertheless, counselling about the consequences of taking such steps ought to be available in an appropriate form, just as it should be for everyone.

By the same time, married couples are assumed to have the right to have children (*Right to found a family*, United Nations, 1948). It may be necessary to do more work to identify from where this right arises if it begins to run into difficulties. With the rise in the availability of treatments for fertility problems, there has grown an extension of this assumed right from that to be allowed to have children to a right actually to have them. It is as if the traditional teaching about the responsibility for parents to have children (and thus to avoid contraception) had been turned on its head and used to bolster this new right.

This supposed right can emerge in various contexts, almost implicitly and without recognition. In the *Cambridge Companion to Liberation Theology* Fitzgerald (1999) alleges that one of the two factors which determines the extent of poverty in any developing country is the average level of income of that country. Of course, any average is the result of taking the ratio of *two* parameters, in this case the total income of the country as well as the population size. Fitzgerald ignores this latter parameter, implicitly assuming that it is either uncontrollable or that it ought not to be controlled. Arising as it does from a discussion on economics and liberation theology, steeped in the Catholic church teachings of the past four decades, it is unsurprising that responsibility for population size is ignored or down-played. The *right* to have children is assumed without justification, despite the one-child population policy of China. At this stage of this investigation, it is unclear whether such a right exists and how it should be balanced against other responsibilities, a problem to be returned to later.

Forced sterilisation of a *national, ethical, racial or religious group* would be considered a Crime Against Humanity by the International Criminal Court (UN, 1998). It is probable that enforced contraception or abortion is not allowed in UK law: an attempt made by an MP in 1931 to introduce legislation for sterilisation of 'mental defectives'

(Hansard, 1931) was heavily rejected. In the case of people with a learning disability, abortion and sterilisation are liable to charges of criminal assault unless there is in place clear evidence of informed consent. The situation in the USA may be different as in the case of Ashley (Pilkington, 2007; Ashley, 2007). For prescribing contraceptive pills or devices, the case is probably slightly less clear, but needs careful statement so that those involved can be clear about what support they may give.

The consequence, unless further reasons are found, is that a couple with learning disabilities has the same duty to have children as any other couple, regardless of the outcome. There is thus an imperative to evolve a theology of marriage for people with learning disabilities that is not discriminatory but which meets their particular needs and circumstances.

It may be that in developing such solutions, the demand from certain churches to avoid contraception, stemming from an over-arching responsibility for married couples to have children, can be offset by an equally important responsibility in determining whether to have children in the first place. This seems to be eminently sensible in the case of adults with a learning disability, but we must then feed back that conclusion into the general case.

In this section so far it has been broadly assumed that both partners in the marriage have a learning disability. In the secular domain there are further complications if only one potential partner has a learning disability arising from the issue of consent and the avoidance of possible claims of abuse. Whilst this is an important issue, it seems unlikely that it raises matters of a particularly theological concern that have not already been aired above.

In 2005, the Department of Health commissioned a survey of adults with a learning disability (ONS, 2005i). Some 8% of the survey group (2898) either were or had been married. However, only 3% were recorded as living independently with their partner. 7% of the sample had children, around half of whom were looking after them themselves. One third had help from someone other than their partner. In terms of the opportunity of finding a partner with which to establish a long term relationship, two thirds of the sample found their friends from amongst other people with a learning disability, but expressed a strong desire to find non-disabled friends. In

general, the group have less social contact than other members of the population.

“People with learning disabilities are often socially marginalised and isolated. They may live in segregated settings with few, if any, social relationships with people living in the wider community” (ONS, 2005i, p16).

Somewhat in contrast, there is evidence that this right is being abused as reports of forced marriages indicates:

The motives behind families forcing their children with learning disabilities into marriage are often the same as for any other forced marriage - cultural attitudes which see marriage as the norm, responding to peer pressure, and to ensure marriage to someone of the same class and religion (Community Care, 2009).

But specific carer-related reasons may also exist, *“But it can also have unique causes, says Mandy Sanghera, a trustee of Voice UK: Some families see marriage as a way of providing a carer for their child, so feel they have their child's best interests at heart”*. Further evidence is given in *Forced marriage: not to be tolerated* (NAWO, 2008) What is clear is that although there is a close proximity to the notion that married people are expected to care for each other and that it is likely that in previous generations an economic motive was predominant in many marriages, the current position is that such arrangements do not constitute a valid civil marriage. It would seem unreasonable for the church to seek to establish otherwise, merely in order not to have to modify its views of whether and in what circumstances marriages can be dissolved or annulled.

It is clear, therefore that although adults with a learning disability have a full right, like anyone else, to be married, there are considerable obstacles to its fulfilment.

6.2. Post-menopausal Marriage

A greater part of teaching about marriage from a Christian perspective, together with the underpinning theological thinking, is directed at couples, young and positively contemplating raising a family, even if its size and timing are to be regulated to some degree.

In past generations, most couples devoted almost all of their post-wedding life to an active involvement in parenting. The need to have almost as many pregnancies as nature would allow in order that sufficient survived to adulthood meant that there was

little of life left afterwards. Indeed, for many women, death in childbirth was a very real risk and perhaps one of the highest causes of marriage termination, along with (for their husbands) death in war or at work.

Whilst second marriages have been common for a long time, these were almost all following the death of the other partner. Frequently, the new marriage continued the child-bearing process.

The arrival of smaller families and increased longevity means that many parents have almost half of their lives ahead of them when their children are no longer an immediate responsibility, even with the extended task documented below.

As a result, there are now many more cases of marriages which are, at the outset, either technically post-menopausal, or at least beyond the point at which the couple wish to continue child-bearing and will expect to achieve the same results as those who are post-menopause.

Life expectancy continues to increase and the Office of National Statistics reports that the fastest population growth in the period 1991-2004 was for those over 85 (ONS, 2005i, p11). It is expected that the proportion of the population over 65 and therefore unlikely to be economically active, will continue to rise.

Whilst this trend is most noted for its impact on economic factors, especially the viability of pension arrangements, it can be expected also to have an impact on attitudes towards marriage. It is unlikely that this group of the population will wish to lead single, celibate lives, yet will be less inhibited by conventions that relate to matters such as child rearing.

The average age for the menopause remains around 51 (WHO, 1996) and, although interest in sexual activity may diminish at this time, the need for companionship is unlikely to be similarly affected and the sexual drive for men is also not necessarily commensurately diminished.² We are also beginning to see more widespread use of medication to offset deleterious effects of the menopause, such as osteoporosis, which can delay the effects, especially as they relate to sexual drive. The proportion of menopausal women in developed countries is around twice that in developing

countries and overall the numbers are expected to double in the next twenty years (WHO, 1996, p8).

It is also suggested that a woman's emotional reaction to menopausal changes may well be influenced by cultural factors. At one time the most significant factor, other than purely physical effects resulting from hormonal changes, was a sense of bereavement at the loss of fertility. However, as more women see their persona and life motivation determined by factors other than child-rearing, then the effect alters. Indeed, in some cases the absence of concern about pregnancy may be seen with a sense of new freedom. As more of the women coming into this age group lived their early life in a time when there was greater sexual freedom, it is possible that the emphasis will be that of regaining this freedom without the counter effects of guilt or consequence. Hence there could be a growth of sexual activity and the formation of relationships (whether or not sexually expressed) in those who until relatively recent times would not have been considered as likely to be marrying or forming long-term relationships. They are probably less likely to be concerned about the traditional teachings of the church which focus almost exclusively on an assumption that marriage takes place towards the early part of adult life, ignoring the differences for those in later life.

All too often, theologies of marriage have found it hard to encompass post-menopausal situations. Stackhouse reports *"Even those who marry when they are beyond the child-bearing age, according to later accounts, replicate the structure of this divine design for the purposes of companionship, mutuality of regard, and relief from wanton temptation"* (2005, p156). In other words, marriage in these conditions is intrinsically the same as for those of child-bearing age, but with something missing.

From one point of view this could be seen as a helpful view, in that it recognises several very important aspects of a relationship other than procreation and that marriage can exist in this form. On the other hand, by emphasising the huge gap supposedly left by the absence of procreation, it sets post-menopausal marriages off in a negative direction.

Furthermore, such a view fails to take into account that a post-menopausal marriage may well still have significant child-rearing and parenting components (for children of

a former relationship or even from the couple before marriage – let alone caring for grandchildren). Marriage liturgies largely ignore these possibilities. For couples beyond a child-bearing age, the language used, along with the underlying theology, is ill-fitting, often quite disrespectful. Exhorting two 78 year-olds with an injunction that they should look to further children as the justification and fulfilment of the marriage seems wrong. Surely this is a clear case for recognising that, in some cases at least, a marriage may be entirely for the good of the couple themselves.

The Episcopal Church in the Diocese of Los Angeles states,

The church has traditionally offered the sacrament of Holy Matrimony to couples for whom the procreation of children was not even an option: for example, couples past child-bearing age, or couples in which one of the partners has a physical disability that precludes conceiving or bearing children. Moreover, couples may choose not to have children for a multitude of reasons (2008, p5).

Liturgically, their relevant phrase is, “*the procreation of children and their nurture in the knowledge and love of the Lord when it is God’s will*” This represents the compromise that many churches adopt. That is, without giving up procreation as a primary element of a Christian sacramental marriage, it is not quite an essential. Of course, the condition “*when it is God’s will*” raises many problems, especially of discernment as well as the relationship between God’s will and the actions of human beings. Given the context of the above citation, it is unlikely that the phrase is meant to indicate that any attempt to control procreation is prohibited. Nevertheless, it still leaves those who have no option of having children, or who chose not to, in an apparently deficient position. Of course, if it becomes possible to view post-menopausal marriage in broader terms than principally, if not quite exclusively, those relating to child-bearing, there seems little in the way of translating the same understanding back into other marriages where the couple, for whatever reason, specifically decide to take steps to avoid pregnancy.

These marriages have presented problems for most churches insofar as the procreative imperative is clearly flaunted. The changes initiated at Vatican II, as described by Jeffrey, were forced to fall back on the authority of the church as the only way of defining which contraceptive practices are acceptable. (2006, p 60)

The change in general health and its impact on the extent of married life after child-rearing is essentially complete, was noted in 1971 in *Marriage Divorce and the Church*,

the so-called Root Report. (see extract in *Marriage and the Doctrine of the Church of England*) “*The prolongation of life together with earlier marriage means that couples can anticipate fifty years or more of wedlock*” (Central Board of Finance, 1985, p19). Of course, several significant changes have occurred since then, including a substantial delay in the average age at first marriage, pre and non nuptial cohabitation and the rise in non-procreative marriages.

Nevertheless, the Root Report continues, “*Such longevity with the availability of more effective means of contraception and the reduction in infant mortality means that a great deal of time and energy has been released for activities other than those traditionally associated with childbearing and caring for children*” (Central Board of Finance, 1985, p19).

However, neither then nor subsequently does the Church seem to have dealt with the implications of such changes, nor the impact that post-menopausal marriage has on the whole concept of marriage.

Still, it was recognised by the Root Report that, “*whereas in the past widowhood often occurred speedily after the departure of the last child from home, spouses have now the opportunity of a new phase of marriage of many years after their last child has left them*” (p19). (Reibstein (2006) documents a number of examples)

D H Lawrence in *Lady Chatterley's Lover* (Lawrence ,1928) sets up a situation which highlights a number of these issues. Connie (Lady Chatterley) marries a man who, as a result of a war-time injury, is not only confined to a wheelchair, but is also unable to participate in sexual intercourse. What interests Lawrence is the consequence of this situation – whether this inability of her husband invalidates the marriage. Clearly for him the possibility exists since he effectively encourages Connie to satisfy her sexual needs elsewhere. But it is also clear that the marriage, in a secular and legal sense, is expected to endure. Connie married as much for property as for love and, despite her husband's injury, she is not inclined to forgo the wealth and position that came with the marriage.

We are thus forced to come to terms with the conflict between the *contract* and the *covenant* views of marriage (of which more in a later section). The *contract* view of marriage covers the matter of property and the duty of the husband to provide both

wealth and status for his wife whilst the fact that he cannot continue to satisfy her sexually allows them both to consider that the *covenant* form of marriage has been dissolved. He can no longer meet his obligations under this covenant and is able to consider allowing Connie to seek satisfaction elsewhere.

In Brazil in 1996, a Catholic Bishop refused to marry a paraplegic man, because he would not be able to have sex and father children (Mackay, 2001).

This section is initially focused on post-menopausal marriage because there are no over-loaded concerns about choice – the woman is unable to procreate simply as a fact of nature, time dictates the condition. (Although less discussed, similar issues relate to men with prostate problems) However, there are a number of lifestyle situations to examine these in more detail – both to find the commonalities but also to see where there are differences:

- childless by choice
- singleness
- live apart together relationships

6.2.1 *Childless By Choice*

Later we shall look at the possibility that there might be a duty to have children. Increasingly, technology exists which enables, by conscious choice, couples who hitherto could not have children for natural causes, now to procreate.

However, in that context, it is tentatively concluded that the mere existence of the technology does not directly indicate a duty to use it, despite the fact that there are many counter examples. Ethically, the Christian message is clearly on the side of stating a positive duty to intervene on the side of good if such a possibility exists. In the parable of *The Good Samaritan* (Luke 10:25-37) the Priest and the Levite are cast in a negative light for *not* acting even though they probably had the means so to do. It was not enough that they had other excuses – the needs of the injured man took precedence; doing good, in this sense, was a high priority and inaction could be just as unacceptable as action with negative consequences.

It is tempting to draw a parallel in the case of choices about procreation: to apply arguments such as that above, demands that we see the action as being unambiguously a 'good'. There has to be no doubt in our mind that, for example, the Samaritan was acting entirely for self-less motives and that there could be no adverse consequence, even unforeseen ones – although the Priest and Levite probably saw it differently with alternative priorities.

We have to face, in our contemporary culture, that actions in the context of medicine, social welfare and others, are rarely, if ever, without side effects. Whatever the life-saving capabilities of a new wonder-drug, they come at a price and that price has to be weighed in the light of the primary benefits.

For there to be an absolute duty to seek to procreate it is necessary to demonstrate that there are no adverse consequences. Otherwise, it becomes a much more complex moral and theological question in which the competing demands of action and inaction are to be weighed, one against the other.³

Thatcher cites Barth as generally advocating child bearing as normative within marriage but concludes, "*It is not entirely clear whether he (Barth) acknowledges that some individuals and some couples definitely decide to avoid having children*" (2007, p219).

But Thatcher goes further and asks:

Is the compensation for childlessness the Gospel allegedly offers available to all childless people (all of whom are supposed to want them), or only to that class of people who do want them but cannot have them because of a lack of a partner or because of a fertility problem? (2007, p219).

Thatcher concludes that Barth, and those of a similar position, fail to address the complexities that modern fertility treatments create. However, he still asserts that, "*the gift of children (is) unambiguously joyful*" (2007, p219) thereby failing to accommodate the consequence of fertility treatment that procreation is not simply to be seen as 'a gift'. That is close to a fatalistic notion which is quite contrary to the proactive sense of responsibility which pervades the character of Jesus.

It is not difficult to realise that there are many situations in which a couple may identify that to seek to procreate (either at all or further than their existing family) has serious negative consequence. In some cases the issues may be medical - a

demonstrable genetic condition that makes it very likely that any child will be seriously malformed - or perhaps economic - the financial circumstances mean that the parents feel unable to provide sufficiently for such a future child. There could be many arguments that the mother is likely to be emotionally or psychologically unfit to nurture another child.⁴

In such circumstances, the couple, and possibly others, have to make a choice based on the positive and negative outcomes of the choice being made. For some, the option of successfully seeking to procreate is wholly good in terms of having the child. For them there is no question that having children is, in principle, a 'good thing'.

However it is not immediately obvious where, from a Christian theological point of view, such a conclusion might derive. There are social and cultural pressures, differing in both time and country, which see childlessness as a wholly negative situation. Certainly, the Old Testament culture placed great importance on enabling the succession of the familial line. A failure to achieve this was a disaster. Augustine, however, developed his thinking to conclude that procreation was no longer the essential for marriage, based on his belief that God was making up the elect from those already baptised (Coleman, 2004, p144).

The fact that God is recorded as having intervened in childlessness (such as Abraham and Sarah, Gen 17; Zacharias and Elizabeth, Luke 1) can be interpreted as supporting the conclusion that procreation is a positive Christian duty. But it is also possible to see these cases differently: whilst the particular culture meant that the lack of a child resulted in great sadness, God intervened to demonstrate a sensitivity to the needs of humans, in whatever their context and condition. There is no place that is entirely without hope.

Change the time, place, culture and society, then the needs also change. No longer do those living in a Western society see childlessness in the same light (Townsend, 2002 as an example) and there is a need to be particularly sensitive to those who do not have children, despite a wish to do so. But there are other needs and those who face a life without hope may well need something entirely different to be provided for them.

It is perhaps therefore important that we look at the *responsibility* of procreation rather than the *duty* or necessity for whatever reason. Child-bearing should be related more clearly to child-rearing and, desirably, all conceptions should be undertaken with a positive intent to act responsibly, taking into account a wide range of known – and perhaps unknown – consequences. It is, therefore, entirely reasonable in this situation to expect, even accept, that a couple may decide, for a variety of reasons, not to have children ever and for this to be consistent with positive ethical considerations.

Whilst it is tempting to conclude that every couple have the right to choose whether to seek procreation, it would be equally wrong to conclude that they have an isolated right to choose without reference to the consequences and, indeed, the motivations, of such a choice. It is the very existence of such consequences that seems to create that right in the first place.

Thatcher concludes that there is, potentially at least, a tendency for consumer society attitudes to dominate such decision making, “*At the very least the desire for children competes with endlessly stimulated desires for endless commodities*” (2007, p224).

The evidence then is that it is likely to be as wrong for a couple to decide not to have children for selfish lifestyle reasons as it is to enforce a cultural expectation that denies the right to make such a choice.

6.2.2 Singleness

Wilson (2005) examines the way in which singleness has been seen in past generations as well as charting its growth and development in recent times. He sets out to see how far the church has embraced the challenges that an increase in singleness presents and how it might do better in the future.

Although his aim is to look at singleness, he does so largely by looking at marriage and married people and inferring conclusions from that perspective. In many ways he approaches but never quite reaches a recognition of the asymmetry in the theological perspective of marriage and singleness. Compare the way in which we might react to a comment about a single person, “Oh, why are they still single?” with the corresponding one about a married person, “Oh, why are they still married?” The former, albeit with an in-built bias, is broadly acceptable to most people whilst the latter would not be. Such reactions indicate that, beneath the surface, marriage – or at

least a stable two-person relationship – is seen as the norm whilst singleness is aberrant. McCulley & Watters (2009) produced a three part radio series entitled *Singleness: Living with a Hope Deferred*. Again, the implication is that it is normal to seek (heterosexual) marriage and that singleness is either transient or a failure.

MacVarish (2006) also notes the rapid expansion in the number of single person households, doubling in the period 1971 to 2000 to 31% of all households in the UK. Although based on a relatively small sample, she notes, “*For the women studied in this sample (aged 34-50), singleness is more problematic than the popular portrayals suggest, primarily because they would not want it to be permanent but they cannot be certain when, how or if it will end*” (1.9) and concludes, “*Issues of intimacy, care and transitional experiences seem to be evident amongst a group predicted to become more numerous in the future; single, childless women who do not feel that they have actively chosen to be either of these things*” (1.34).

Although in earlier generations and in other cultural contexts, enduring non-sexual friendships played an important part in social structures, the present sexualisation of all lifestyles seems to have marginalised friendship as something to be desired or sought. Cardman concluded that:

Relatively little attention has been paid to friendship in Christian theology and spirituality, and why much of what has been written is not really very useful. Instead of abstract treatises on "spiritual friendship," what we need now is a theological understanding of the very human experience of friendship, a theology of "bodily friendship," so to speak (1983, p304-318).

Stuart (1995) wrote about whether friendship can be used to understand the relationship between God and humanity, especially from a same-sex perspective.

6.2.3 *Live Apart Together*

A relatively new phenomenon has been given the title *Living Apart Together* (LAT) and its growth has been charted by the National Statistics office. In December 2005 it was estimated that up to two million men and a similar number of women, aged under 60, have a regular partner who is in another household (ONS, 2005i). Such people generally consider themselves to be a couple, and will act accordingly in a social context, but they choose to live in separate households.

A growing element of this phenomenon includes younger people still living in the parental home. It appears likely that the high cost of setting up home together is the

determining factor – in the absence of this constraint, the relationship would otherwise have become a single household. As Reibstein (2006) charts, this may well be part of a process in which a couple explore the possibilities for a long-term relationship.

Haskey and Lewis (2006) report on a substantial survey of attitudes amongst LAT couples. They conclude that the phenomenon is not a new form of relationship but more a reaction to perceived difficulties in achieving a co-residential relationship.

6.3 Changes in Parenting Role

In England and Wales, the Office of National Statistics regularly publishes the results of various studies concerning the incidence and nature of marriage in relation to age, place of ceremony, birth of children and so on. The age of first marriage continues to rise and is now just over 30 (ONS, 2005a). However, for women there has been a growth in the distinction between those who marry young and those who delay much later than the average. Overall, the tendency to marry young, which flourished between 1960 and 1980 has once again diminished (ONS, 2005h). Whilst the period after the Second World War up to 1970 showed a growth in the number of women who were pregnant at the time of the marriage, this subsequently diminished, suggesting a decline in the social pressure to marry as soon as a pregnancy was confirmed (ONS, 2005b). The percentage of women who marry has steadily declined (ONS, 2005c) whilst the number of single parents has risen (ONS, 2005d).

ONS (2005e) also shows that whilst there was once a high proportion of couples having their first baby soon after marriage, indicating that many brides were already pregnant when the wedding took place, this is no longer a dominant factor. The mean age of childbearing fell sharply between 1930 and 1945, rising consistently thereafter (ONS, 2007c). Together with ONS (2005f), the evidence suggests that marriage is seen neither as a necessary nor a sufficient condition for procreation. (However, Dormor (2004) notes that in the hundred years following the Hardwicke Act, perhaps as many as 20% of couples cohabited outside marriage) There has also been a decline in the size of household, reflecting both the rise in single parent families and reductions in family size (ONS, 2005g).

However, the trend in family size is much less easy to measure – or even to define. Whilst in the past it would generally be taken to mean the average number of children born to a married couple, who then lived together until they were past child-rearing age, today many households contain children from various previous relationships, married or not. However, the number of children per woman continues to decline as shown in ONS (2007).

The number of women who do not have children has also changed but, although it might popularly be assumed to have been on a general increase, the following statement from the Office of National Statistics indicates otherwise:

Some women remain childless. Twenty-one per cent of women born in 1920 were childless at the end of their childbearing years. This declined to a low of 9 per cent for women born in 1945 and 1946. It increased subsequently, and will be just under 20 per cent for women that are soon to complete their childbearing years (ONS, 2007a, p4).

A recent development is the possibility that couples may openly become the legal parents and form families where both of the adults fulfilling a parental role are the same gender. The extent to which this occurs in UK is not necessarily easy to determine but studies in US suggest that between 6 and 14 million children have at least one gay or lesbian parent and 10,000 children are being raised by lesbian mothers who had become pregnant through alternative insemination.

Data for the US, presenting a not significantly different pattern, is summarised by Coontz (2005, 2006a, 2006b, 2006c, 2006d)

The overall picture is that whatever people might wish for, or the church and other moral ‘guardians’ preach, there is a continuing rise in the number whose practice is rather different from so-called traditional family structures (Drucker, 1998, p37).

Whilst these situations are too recent to establish the long term effects with any degree of certainty, there is confusing and contradictory evidence about the ability of children to thrive in various household circumstances (Juby, Marcil-Gratton & Le Bourdais, 2000). There are indications that the social prejudices surrounding single sex relationships may expose the children to particular pressures but these are not likely to be significantly different from those experienced by children of any minority group (e.g. black children in a largely white community).

Willimon (1996, pp172-174) raises the influence of trends towards the individual, as having pre-eminence over society, as a significant factor on attitudes towards the role of parents. He points out that, however much we may think that we know our partners before marriage, the person they evolve to later in life may not be the person whom we chose. Equally, however much we may think that we take a conscious decision to have a child and take responsibility for its upbringing, there is much about that child which we do not choose. *“What makes being a child or a parent so unusual is this: you didn’t choose your parents and they didn’t choose you”* (1996, p173). Martinez makes a similar observation: *“many people have lost the capacity to share intimacy because of a highly competitive individualism”* (1996, p188).

It is important to recognise that these trends are specifically those of the developed, western countries. Considerable differences exist elsewhere: Martey highlights the fact that many African societies, dependent on a very largely non-industrialised economy, still place child rearing as the primary reason for marriage, *“Unlike in developed countries where the instruments of production are machines and where sophisticated tools are used, in traditional Africa goods are produced mainly by human beings. Because of this, much attention is placed on marriage and child-bearing”* (1996, p204). He goes further: *“Marriage is therefore looked upon as a sacred duty which every normal person must perform ... marriage is only a means to an end and not an end in itself”*.

Coontz reports that in the US, there has been a decline in Married Couple Households, *“ [marriage] is what they do a considerable time after they have achieved those goods, 40% of homebuyers in America are single, the majority of them women”* (2006b).

It is important to disentangle current economic circumstances from any attempt to define marriage in more fundamental terms. Any meaningful theology must be capable of being used as relevant teaching in such varied conditions.

6.3.1 Parenting Role

Central to any marriage theology is the responsibility to rear any children who are born to the couple. The need for a positive framework for the growth of children is a key factor in looking at recent trends in divorce, cohabitation and, increasingly, non-partner conceptions and same-sex parenting.

Those keen to argue for the traditional nuclear family, point to evidence that children brought up in other contexts, such as blended families, do less well whilst other researchers claim that there is no difference (Milena, 2009; Bumpass, Raley & Sweet, 1995; Bumpass & Raley 1995; Larson 1992). It seems that, despite correlations between adverse outcomes and non-nuclear families, the selection process leading to such families is more of an influence than the nature of the family:

The question, however, is not whether recent family transformations are positive or negative — the family has always been a vehicle for social change, and continues to be so. The real issue is how best to manage these changes at the individual and social level, in order to ensure children's well-being throughout childhood however simple or complex their family life course (Juby, Marcil-Gratton & Le Bourdais, 2000, p201).

There is, unsurprisingly, less agreement about what measures are to be used in determining what is meant by a more successful or less successful outcome of parenting. Is the measure to be economic – the child has access to a wealthier standard of living? Is the objective to create a sense of justice or an acceptance of traditional religious faith? Are we seeking new adults who have confidence in their sexuality? Is it important that the next generation is able to form stable and lasting relationships?

Of course, many people would subscribe to some or all of these and others. The problem then for anyone wanting to establish *evidentially* that the nuclear family is best is to cope with such a multi-dimensional scenario. It is highly unlikely that any sample group will show consistent rankings and the more objectives that are added to the list the more confused the analysis becomes.

Perhaps we could pick out just one objective to use for comparison. Leaving aside the probable improbability of reaching such agreement, we can never eliminate the effect of history – society is ever-changing and what works well in one generation may well be less successful in different times and we may not be able to select culturally-independent factors.

In any case, we have to be particularly careful that we document the changing context so that we can identify whether or not it is the context or the reaction to the context that is the causal factor. Suppose we are able to measure a change in, let us say, the ability to form stable and lasting relationships as seen in divorce rates, and seek to

link that to changes in the divorce rates of the parental generation. What we cannot do is jump to the conclusion that one is the *cause* of the other. It may well be that both are reactions to economic changes which have happened contemporaneously.

Perhaps the most significant change in the child-rearing task is in the length of dependency or childhood (Haskey & Lewis, 2006, p40). In not much more than 150 years, British society has moved from a situation in which children were starting work routinely between age 7 and 9, to the present day with school leaving age at 16 but with a practical age of 18 for the majority and a public policy of encouraging at least 50% of children to attend university or some tertiary vocational education up to 21. Around nine out of ten students who get two or more A levels go on to further or higher education (DfES, 2006, p6).

In parallel, peri-natal and infant mortality have largely been eradicated from a past situation in which up to half of all live births failed to lead to an adult of 21. Family sizes have now dropped to below the replacement rate.

Although the past decade has seen only a slight rise in the number of births outside marriage there is a continuing sharp drop in the numbers within marriage to a point at which they may soon be less than those outside marriage.

Whilst the number of dependent children per family has thus dropped, the economic and psychological burden has dramatically increased. Instead of parents only being fully responsible during the few years of physical dependency, their children now pass through puberty into being sexually active and possibly child-bearing and marriage before they have completed full time education and economic dependence.⁵

Any consideration of marriage today must recognise that procreation not only extends to the rearing of 'children' (in the young person sense) but also of being able to adapt and evolve the relationship to permit successful cohabitation with them as adults. There are entirely different dynamics involved as well as emotional pressures, not least because such off-spring probably lack the ultimate option of leaving home in the event that they wish to follow incompatible – but equally reasonable – life styles.

Jones (2005) examines the implications for families following social changes including an expectation – both by the state and by children themselves – that parents will provide more economic support during the transition to adulthood and that this support is required for much longer⁶.

Beyond a certain age – which will no doubt vary from one family to another – this economic support is very much a function of the willingness of the parents to provide it. No longer is it seen as a duty, despite planning assumptions by the state.

As a result, many young people may find themselves in a poverty trap, attempting to be economically self-sufficient in a context where a declining youth labour market and rapidly increasing costs of housing make this ever harder to achieve. Jones also notes that, “*because transitions to adulthood are more risky, returns to dependence may be needed*” (Jones, 2005, p2). In other words, early attempts at leaving home, with cohabitation on the increase, may break down, leaving the young person with little alternative to return to the parental home. The joint income from two young people may be just sufficient to set up home together whilst a single income is not viable. Indeed, it may be that this fact alone has promoted much of the transitory cohabitation (ONS, 2005i).

An important point, also made by Jones, is that adulthood is no longer a single dimensional achievement. Many young people may consider themselves to be adult in certain senses but still remain heavily dependent on their parents or wider family for much longer. This cannot be expected to be without inevitable tensions.

Additionally, whilst in part-time employment, young people may be expected to be responsible adults (often left in charge of non-trivial situations) whilst being treated very differently during education or training.

From the US context, Coontz writes:

Marriage no longer regulates social life the way it used to (or was once supposed to). It is no longer the main way people establish a separate residence on leaving home or school. It's no longer the first step people take toward settling into a permanent job, buying a home, and embarking on an adult life and later, Having said all that, let me make one thing clear: This reduction in the social dominance of married couple households is not a threat to the existence or quality of marriage. Most men and women eventually marry. (Coontz, 2006b)

Indeed, the combination of increased divorce (although this may be more myth than reality – see Coontz, 2006d), the pattern of repeated relationships including subsequent marriage and the extra length of economic dependence has led to a marked rise in the problems associated with step-children who become sexually available. A number of workers have identified and tackled cases where a step-child, aged 16–18, has been thrown out of the parental home, usually with an undertone that the new step-parent cannot cope with the sexuality tensions which arise. The young, often but not always, step-daughter offers a potentially more attractive option than the parent and none of the historical taboos of incest offer any protection. Equally complex are relationships between step or adopted siblings. It may also be the case that a recent trend to fewer divorces (at least in US) is more to do with the rapid increase in cohabitation rather than a growth in commitment to life-long marriage (Coontz, 2006d).

Simple statements about marriage and child rearing no longer suffice in the way that they might have done 150 years ago, “*we cannot return to a world where almost all child rearing and care-giving take place in and through marriage*” (Coontz, 2006d, p271). It was perhaps once understood that marriage involved an implicit covenant with the children yet to be born or even conceived. It was not necessary to turn that relationship into anything explicit whilst the norm was an enduring marriage with comparatively short childhood, even though the covenant was perhaps more the converse in that it was understood that provision for old age depended on having sufficient surviving children to look after their parents once past the age of work.

Willimon (1996, pp 172-174) gives a reminder that much about marriage and parenting lies outside our *a priori* choice and that, to a degree and in the long term, we do not choose our children or they their parents. The increases in the length of childhood and of dependency only serve to make his observations more important than ever before. There is simply just more time in which to develop and change so that even less are our marriage partners the people whom we chose to marry or our children like those in our dreams at the moment of conception.

In a note of criticism on prevailing attitudes towards parenting, he reminds the reader that “*You must receive a child. The Bible says that a child is a gift, not a possession or a*

project". He might also have added that neither is having a child a right or even, perhaps, a duty.

There are echoes here of Hauerwas's Law: You Always Marry the Wrong Person, where he notes, "*the inadequacy of the current assumption that the success or failure of a marriage can be determined by marrying the **right person***" (1978, p414-422). In other words, marriage will succeed or fail as a result of what both partners do and become over a period of time. The same can also be said of the relationship between parent and child.

The advent of widespread divorce brought into the post-marriage situation legal and adversarial arrangements which have only proved to be successful in a proportion of cases. The tensions created by court judgements that are not fully accepted may even be greater than the pre-divorce tensions to the extent that studies on the long term outcome of divorce for the children are probably unable to distinguish the effects of an unsatisfactory marriage from those of an unsatisfactory divorce. Despite a legal emphasis on the needs of the children, most talk is of parental *rights* rather than parental *responsibilities*.

Jones makes the observation, "*The relative obligations of various types of parents (biological, step, absent, lone) are unclear*" (2005, pp5-6). Campaigns by organisations such as *Fathers 4 Justice*, seeking to establish stronger legal protection for access by fathers to children living with a former partner, focus entirely on parental rights. Little work appears to have been done to assess the impact of weekly shuttling from one social context to another on the ability of children to form lasting relationships. The rights of children are often re-stated in terms of rights for the parents, cloaked in a 'best interests of the child' judgement. With children able to make a judgement, courts have taken to including their views within the decision making process when it comes to making a residence order. This practice was introduced in the 1989 Children Act which states that in any court decision, "*the child's welfare shall be the court's paramount consideration*" (Parliament, 1989, Part1, Section 1 (1)) and "*the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)*" (Parliament, 1989, (Part1, Section 1 (3))).

Too often the assumptions behind statements made by churches about parenting neglect to recognise that there is this spectrum, focussing entirely on the so-called traditional family in which both biological parents are present and enduring. One of the important challenges facing a theology of marriage (and the family) is to speak to this very much wider range of experience. In the context of Evidential Theology, that experience has to be taken seriously.

Clearly there are opportunities for the church to look again at its theology of marriage and the liturgical expression of it. In particular, marriage where there are children being brought into the new family from previous relationships (whether married or not) could usefully incorporate explicit recognition of the covenant between the new parents and the children. Whilst Jones recognises the economic and emotional challenges facing parents which were not present in prior generations, she fails to make a link between the experiences of parents with young adult children and the commitments made (or not, if not fully understood at the time) at marriage and which affect the relationship over the intervening period.

The Root Report recognises that even after divorce, “*the couple will always remain people who have been married to one another*” (Archbishop of Canterbury Commission on the Christian Doctrine of Marriage, 1971, p23. Nowhere is this more true than in the shared responsibility for children of that marriage. No subsequent marriage can ignore the fact that it is, in that respect at least, quite different from the conventional model of pre-children (and pre-sex) marriage. Failure to address this issue can only add to pressures on the new marriage, increasing the risk of it too failing.⁷

If we then look to ways in which it is possible to bring marginal solutions back into the centre it may prove possible to develop further the *covenant* concept. It may be possible to view a covenant as something that has an open-ended and enduring potential – in parallel with covenants in a secular context – but which can by consent be set aside or, more especially, revised. Implicit covenants can be converted into explicit ones together with liturgical expression with the result that we are better able to re-examine the role that an enduring parental relationship has on child-rearing. Is it something that is needed for ever? Is there a point at which the input from the parents is no longer *qua* child rearer? At that point is the ‘need’ for the parental marriage something that can be established theologically or even in a secular sense?

Furthermore, it may be possible to develop the concept of what happens in a marriage ceremony as initiating a permanent relationship with children as much as between the partners. Marriage preparation should emphasise the life-long commitment not only to the partner but also to any children, whether or not they already exist (including those in the womb!) This commitment may well out-survive the marriage. Divorce clearly does not dissolve the commitment to children.

As we shall consider below, many people are either remaining married, or becoming married, long after they are actively involved in child-rearing. In these cases, many of the reasons advanced against divorce, or at least for seeing it as an undesirable end to a relationship, no longer have significant impact. What is the theological argument, aside from that of a vow *in perpetuity*, for a 60 year old couple whose children have long since ceased to be dependants, for not allowing divorce and then re-marriage? One certainly cannot appeal to the observed consequences of such an event on the children.

Indeed, should we be concerned that the central emphasis placed by some denominations on child bearing as not only the reason for marriage but also its enduring purpose leads to confusion about the post-child-rearing phase of married life? A marriage which is primarily held together in the purpose of child-rearing may cease to have those ties when the task is no longer significant. If the marriage had been founded on broader principles – such as mutual support and friendship – might it be more likely to survive the longer term requirements that modern social and medical changes demand?

As if such changes were not in themselves enough for modern society to cope with, there are now significant new opportunities for the parenting context. With the introduction of civil relationships, at least in Britain, it seems probable that there will be a growth in the numbers of such couples seeking to participate in the child-rearing process, even if they are unable to be child-bearing in the conventional sense. Not only is adoption now possible for those other than married heterosexual couples but there are alternatives of surrogacy and fertilisation without the immediate use of physical intercourse.

In a growing number of cases, women – more often than men – are positively choosing to be single parents. (ONS (2009) states that 23% of children live with a single parent,

compared with 8% in 1972.) With most existing data on the effects of single parenting being derived from relationship breakdown situations, it is unclear what might be expected from those which are created by deliberate intent. Indeed, a study of such cases may help to unravel some of the many factors which have led various investigators to conclude that children from single parent families do less well in life than those from two parent families.

This may be another opportunity for a positive celebration in liturgy of a covenant relationship between parent and child. The enduring popularity of infant baptism needs better explanation. Whilst it may be considered a folk mythology, it may well be that there is a subordinated desire for a liturgy that affirms the parental role. What better than to extract that desire and turn it explicitly into a pastoral opportunity for the church. For, unless we are talking about matters that might be considered sacramental, there seems little reason not to devise liturgies on a more transient basis, meeting the needs of the zeitgeist rather than seeking some form of spurious ecclesiological immortality.

6.3.2 *Why Do We Have Children?*

So far we have assumed that having children is merely a fact of life(!). It is certainly true that many parents do not together, or even apart, decide to have children for a specific purpose. They may even be unclear about the effects that having a child will bring about, especially those born ‘accidentally’.

Hauerwas makes it clear that this is certainly not a trivial question and he roots his own answer firmly in a Christian theology - having children is part of a God-given imperative to perpetuate the Christian community:

We do not have our children because we have some obligation to keep the species intact; or because we wish to furnish our country with a population: population large enough to secure worldly power, but because we are pledged to exist as a Christian community (1977b, p154)

This is largely an unsatisfactory answer: it is an over-romanticisation of what most people, even Christian people, contemplate when deciding, if they decide, to have a child. It seems likely to be the last thing on their mind as they engage in frenetic sexual intercourse. Indeed, it may even seem unrealistic in that context to expect a rational answer to the question.

But more than this, Hauerwas asserts a pledge which all Christians make to exist as a community. He deduces from this that there is also a pledge to perpetuate the community. This is a long way from the early Christian church, where Paul's advice was set in an eschatological framework, that the perpetuation of the community was not a necessity. After all, it was expected that the community would soon be completed as the Second Coming made further procreation unnecessary.

Let us therefore try to tabulate possible reasons which parents may have for procreation:

- desire for family perpetuation
- economic, support in older age
- creative instinct
- fulfilment of a right
- social conformance
- object of love

As we expose such reasons it is easier to understand why having a child with a disability (learning or otherwise) brings with it such anguish for the parents. The family perpetuation is not going to be maintained by this child – there is still a widespread (albeit not universal) sense of concern by parents about 'the lack of grandchildren', when their own children fail to procreate. Quite clearly, children with a disability, far from providing a guarantee of support into old age, make their own demands which become increasingly a worry for parents as they reach an age where they can no longer expect to care for their child themselves. The creative instinct and social conformance are understandably impacted with a sense that they have created something imperfect, a 'failure' in the same way that a broken pot is a failure for a potter. We will look later at the question of whether there exists a right to have a child but, insofar as this appears a self-evident expectation for many, the birth of a child with a disability is an infringement on that right.

Arguably, the one remaining objective – that of having something to love – lies at the heart of the way in which many theologians resolve the question of why do children with a disability exist. It is erroneous to assume that because a child with a learning disability is impaired in other ways then their purpose is focused in their remaining ability to love their parents, and others involved in their care.

It is not necessarily the case that children with a learning disability have a disproportionate ability to love, at least not in an unselfish way that is characterised as Christian love. There seems little objective evidence that having a learning disability disposes an individual to a loving nature any more or less than the rest of the population.

However, we ought also to examine whether creating a child as an object of love is itself desirable. Love, in the Christian sense, ought to be a response (like the Good Samaritan) not an intention to obtain benefit. Children ought not to be seen as assets, to be created for a selfish purpose. Creating something to be an object of love is as much a selfish act as it to create them as an economic asset.

6.3.3 Rights and Duties in the Family

There might seem little doubt that the emergence of Children's Rights – especially as defined in the UN Convention on the Rights of the Child (United Nations, 1989) – has marked a potential step change in the relationship between parent and child.⁸ In any event, there is growing evidence (e.g. Jones, 2005) of dramatic changes in the parenting role.⁹

In the Judeo-Christian tradition, it is tempting to see the position prior to the twentieth century as being simple: parents (especially fathers) had a right to perpetuate their family line and had the right to obedience from their children – parents had a duty to care for their children insofar as it contributes to that objective.¹⁰ The relationship between parent and child did not diminish with the passage of the child into adulthood (Luke 15:11-32), although the duty eventually turns from a dependency on the parents to one of provision for them in their 'old age'.^{11 12}

Today there is more emphasis on the failure of the parents to discharge their duties rather than on the failure of children to obey their parents. There is common agreement that children become 'uncontrollable' at an ever earlier age with exclusion from school having no effective lower age limit (DfEE, 2000).

There is no consensus about the causes of the rise of serious childhood misbehaviour: blame may be laid at the feet of rights legislation although this is probably misplaced (Marshall & Parvis, 2004). More likely are the social changes which place a greater

emphasis on babies as assets, quickly turning to liabilities as their impact on the lifestyle of the parents becomes apparent.

Increasingly, a child has to establish and maintain simultaneous relationships with more than one set of parents – and grandparents. Whilst previous generations may have had to cope with either a missing parent (killed at work, in war or in childbirth) or a step-parent, these were serial changes. It is only in recent times that children have had to cope with multiple concurrent family relationships.

There is an assumption that the balance in the parent-child relationship shifts from wholly *direction* at birth to wholly *advice* at the age of majority, with a gradual transition in between. The rate at which parents transition from *direction* to *advice* appears to be dependent on a cultural context. Some argue that the transition has been accelerated with not wholly advantageous consequences.

If we are to accept this model then we have to cope with a different definition of the parent-child relationship post-majority. The above presumes that the child has become independent by that stage and the enduring role is that of parents as advisers. However, that presumption as Jones highlights, is no longer possible and we have to accommodate a responsibility laid on parents by the state to continue to provide, at least in part, for their child.

Popular opinion might perhaps assume that a parent who still has some duty to provide for their child has a corresponding right to exercise a similar degree of direction with a duty to obey being laid on the child, at least to the degree that the parent is providing. But our earlier analysis of the UN Convention suggests no foundation for such an assumption. Clearly, however, many would see it as Natural Law in a vague application of the principle “*Who pays the piper, calls the tune*”. Little wonder, then, that distinct and significant tensions arise in this new scenario, problems which, on current trends, are set to increase.¹³

The evidence, therefore, is that the historic concept of the formal relationship between parent and child has changed significantly, an impact that has to be incorporated into a theology of marriage. In particular, the need to see marriage as an enduring relationship, not just an event at a point in time, will require us to recognise the

relationships between parents and children as an integral part of what constitutes marriage and which cut across the more limited view that children are simply the *product* of a marriage.

6.3.4 Relationship Between Parents, State and Church in Parenting

Responsibility for the rearing of children has always been shared between the parents and the state. Gillard traces origins of schools in England back to the sixth century but makes the motivation clear:

The earliest known schools in England date from the late sixth century. The conscious object of these early schools, attached to cathedrals and to monasteries, was to train intending priests and monks to conduct and understand the services of the Church, and to read the Bible and the writings of the Christian Fathers (2007, Chapter 1).

Education has increasingly become the responsibility of the state since 1833 when Parliament began building schools for poor children and the first Education Act in 1870, culminating in the achievements of the 1944 Act which clearly set out the aims and objectives for secondary education, which subsequently evolved into the comprehensive system, pioneered in London¹⁴ and Leicestershire¹⁵.

Generally, developments in the provision of state education followed a social engineering agenda “*the clumsy doctrinaire application of the principle by the Socialists*” (Fenwick , 1976, p53). The London School Plan was clearly based on social engineering principles:

From such an education it is hoped will flow in time a healthy mutual regard and understanding between persons of different ability with far reaching effects on the cultural, industrial and commercial life of the nation and on the social life of its people (1976, p9).

By the mid 1970’s it was becoming increasingly obvious that the social engineering dividend was not always being earned (Cosin & Hales, 1983, p235) and, as a result, there has been a continuing ebb and flow of public policy.¹⁶

However, by the start of the new millennium, the goal of encouraging, even expecting, at least 50% of children to go into university education was accepted. One result of this new trend was clearly to extend the period of economic dependency on parents with a blurring of the transition from emotional dependence.¹⁷

Similarly, there has grown up a difficult role for the state in terms of Child Protection. The tradition of state protection for children is a long one, mainly to provide a legal framework within which limits are set on what children may do and what may be done to children.

Although school leaving ages have increased, the current limit is barely relevant as the great majority continue well past this date and many young people are not expected to be in full-time employment until well after the age of 21. Perhaps for the first time in history, emotional independence precedes even partial economic dependence. Contrast this with the position barely a century earlier in which children as young as nine were making important economic contributions to the family budget, quickly becoming net contributors.

A long series of Factory Acts¹⁸ sought to regulate working conditions and have gradually raised the ages at which children may be employed. However, the intention may have been more a moral one and enforcement was much slower in being introduced.¹⁹

Child Protection is now an important feature of public policy and changes in the last couple of decades have shifted the agenda: whilst previously it was largely the task of the state to set a framework and then to police adherence to it, the exposure of child abuse, dating back many decades, which came to prominence in the later part of 1980's, has created a much more pro-active duty for the state and many people now look to the state to *prevent* abuse and cases such as Victoria Climbié generate more criticism of social workers, teachers and police for lapses in their vigilance than of the perpetrators of the abuse (sometimes murder) itself.

Religion established its involvement early. In Old Testament times, most formal teaching was focused on the Scribes and, although some would be literate, much learning was passing on in an oral tradition. In this way, organised religion had a strong influence (and still does in some, largely non-Christian, societies).

Botticelli & Eckstein present evidence that:

[The] religious and educational reform within Judaism received a big push after the destruction of the Second Temple in 70 CE when the power in the Jewish community shifted from the Sadducees to the Pharisees. The new

religious leadership transformed Judaism from a religion based on sacrifices in the Temple in Jerusalem to a religion whose main rule required each male Jewish individual to read and to teach his sons the Torah in the synagogue (2005, p923).

The state and the Church have both considered that they have a role to play in defining the minimum age for marriage.²⁰

Pressure seems to derive from an implicit assumption that older is better without reference to any more objective analysis or to factors that might ultimately lead to a counter-pressure if such legal ages were raised too high. Already, ‘nature’ is being defined by setting the minimum age for marriage (and simultaneously sexual consent) well above that of puberty – the age at which it would have to be said that ‘nature intended humans to marry as a prelude to procreation’ – were one to believe that nature can be read that way. The age of puberty is on a downward trend.²¹

The age of consent and the minimum age of marriage have almost always been set at the same level - presumably based on the assumption that marriage inevitably leads to the imminent prospect of child-bearing. This link is entirely logical in a theological and pastoral context that maintains that not only should sexual intercourse take place within marriage but also that the over-riding purpose of marriage is procreation. With both of these principles challenged more in the breach than the observance, marriage is neither linked to nor precedes child bearing in the majority of relationships. Certainly, the link between puberty and marriage/procreation no longer exists²².

Evidential Theology leads us to challenge the role that child-bearing has on the theology of marriage – at least in the general case.

Conclusion

In considering what a general right to marry implies for people with a learning disability, it is found that the view of marriage as a contractual relationship presents considerable problems and that marriage as a contract is incompatible with the universal right to marry. We therefore will need to find an over-arching theology of marriage which does not depend on a contractual basis.

An increasing proportion of marriages are childless, either by choice or not. Unless we are to reject such relationships as not 'proper' Christian marriages, we will need to adapt traditional marriage theology to relate very differently to child bearing.

The varied and different contexts in which people enter into marriage in contemporary society has forced us to recognise that the assumptions of traditional marriage theology exempt most, if not quite all, current marriages from its scope. In the search for a universal marriage theology we will have to admit much wider assumptions about the relationship between marriage and parenting.

- 1 *Pregnancy, birth and early parenthood - a guide for physically disabled parents* (DPPi, 2010) charts both good practice and the obstacles faced by parents with a disability wanting to have a baby.
- 2 Over the age of 50, benign or carcinogenic prostate problems and/or treatment frequently lead to erectile dysfunction.
- 3 A statement made by Pope Benedict XVI in November 2010 initially appears to admit the possibility that adverse consequences may be adduced to justify the use of condoms in particular circumstances but it may take a little time to determine more precisely how this is to be interpreted in the more general cases.
- 4 Babies have been taken into care soon after birth principally on the grounds that the parent(s) does not have the capacity to parent successfully, perhaps on intellectual or mental health grounds.
- 5 The average age of a first time buyer (without parental support) is around 38 and expected to rise to 43 for present 21 year olds. (Mortgage Solutions, 2010)
- 6 The following question which was posed in the Money Guardian encapsulates several of the changes: *"My 19-year-old daughter earns about £200 a week. She is paying me £50 a week towards household costs, but she resents it – her friends pay nothing. I'm a single parent on a low income and receive nothing from her father. Am I being too tough on her?"* (Anon, 2007c)
- 7 The church to date has done little to support, or even recognise, the effects of divorce. Yet it is often described in terms resembling bereavement for which there is a long history of theology and liturgical support. There are perhaps two distinct opportunities for the church: on the one hand there are hotly contested divorces where one partner, perhaps for religious reasons, unwillingly agrees to the separation. On the other hand there are many cases where the relationship has dwindled and the eventual divorce is more a matter of fact than a bitter fight. In the former case there is a need for the equivalent of bereavement closure in which the church is able to stand alongside the divorcee and help them to come to terms with the loss of the relationship. In the second case there should be the possibility for the church to bring the couple together as part of the resolution of the divorce and incorporate an explicit covenant with the children, making it clear both to the parents and to the children that, despite the ending of the marriage, they will continue to exercise their responsibilities towards each child. It may also be that the extended family and wider society will benefit from such a recognition.
- 8 Marshall and Parvis (2004) give a comprehensive review of the foundation upon which the Convention exists as well as its impact socially and theologically. They conclude that the Convention has followed social change rather than caused it.

- 9 Of course the Convention did not cause these changes but it is a moot point whether it has catalysed or enabled change.
- 10 Lemmings (1996) includes some interesting records of views expressed in Parliament during the debate about the Hardwicke Act.
- 11 Marshal and Parvis (2004) point out that this picture, based on strict obedience - almost subservience – is not the only reading of some key biblical passages (page 282 ff). They distinguish between *honour* and *obedience* with the former being, for them, the chosen reading. Whilst *honour* may have a presumption of *obedience* built into it, it is not inalienable. As such, it is more of a liberty-right rather than a claim-right: the emphasis is more on what children should not do rather than something to which parents can lay an absolute claim.
- 12 Stackhouse (2005) identifies (p164) the association of slavery with Christianity as having enduring influences. He argues that the biblical authority which was used to justify not only the subjugation of slaves to their masters (including control over sexuality, breeding and what passed for marriage) spilt over into a broader understanding of marriage.
- 13 Of course, this is not an entirely new phenomenon but the case of financially-dependent children past the age of majority was largely confined to the wealthier section of society when there were either insufficient males to marry all of the daughters or insufficient estate assets to enable sons to raise families in the manner expected.
- 14 The London School Plan 1947 (London County Council, 1947) went further and stated (p8), *“it was decided (in 1944) to establish a system of comprehensive high schools ...This means that children of all kinds will attend the same school.”* (p9)
- 15 The first comprehensive schools in Leicestershire were introduced for economic reasons in largely rural areas where it was difficult to establish sufficiently large catchment areas without excessive travelling times. (Fenwick 1976, p96)
- 16 The cost-cutting agenda of the 1980's and first half of the 1990's led to education expenditure coming under pressure. By 1997, *Education, Education, Education* (BBC 2005c) was used as a mantra for the incoming New Labour government. (Smithers 2007, p8)
- 17 The planning assumptions currently are that all young people will stay in school or similar full time education until 18 (effectively raising the school leaving age from the statutory base of 16) and that half will undertake further full time tertiary education (predominantly to degree level) and that most of the remainder will receive part time job-related training. As a result, few young people are expected to be in full-time employment until well after the age of 21.

- 18 The 1802 Factory Act limited the hours a child of nine could work to eight hours a day and also banned employment under that age. This lower limit was raised to twelve in the 1901 Factory Act.
- 19 The 1802 Act became known as the *Health and Morals of Apprentices Act* (Britannica 2009).
- 20 Marshall and Parvis note (p26) that the UN Convention of the Rights of the Child has also contributed to this process. *"The (UN) Committee (on the Rights of the Child) has consistently promoted high minimum ages for employment, criminal responsibility and sexual consent."*
- 21 Improving health conditions (Sloboda et al 2009) lead to a measurable reduction in the age of puberty - is that an argument for reducing the age of sexual consent? With increasing economic difficulties, especially in the cost of housing, is that an argument for increasing the minimum age for child-bearing? Is it realistic to prosecute for a criminal offence two fifteen year olds for having consensual sexual intercourse when they are both two or more years post puberty? Is it sensible to consider that two sixteen year olds are fully able to provide a satisfactory environment in which to bring up a child, bearing in mind the rights of the child to an adequate standard of living?
- 22 At present, around half of all young people have their first intercourse by the age of 17 and around a third before the legal age of consent (Channel 4, 2009; Mackay 2001). If non-penetrative sex is included then the proportions become much higher (Regenerus 2007)

7. What is Marriage?

Our consideration of three different scenarios has given rise to fundamental difficulties with some aspects of a traditional theological perception of marriage:

- the contractual basis
- assumptions about child rearing
- the sequence from betrothal, into marriage and then into child bearing.

We need to examine further the way in which these three assumptions have influenced traditional ideas.

It is clear from our previous discussion that it is important to establish precisely what, theologically, is meant by the term *marriage*. As indicated earlier, we need to consider separately what marriage *is*, in the sense that we can measure or observe it, and what marriage is *for*: its purpose.

Clearly there is an important distinction. Laying to one side the post-modern criticism that an observation is never entirely independent of the observer, what marriage *is* often lies outside our control: changes happen, almost regardless of what we would like the situation to be. However, there is also a sense in which the purpose of marriage is entirely under our collective control, it is a human-made construct (albeit overlaid with a possible theological claim that marriage, as with anything in creation, was made by God and thus must have a purpose) which we can change as needed.

In this section we will consider the definition of marriage from three different perspectives:

- marriage as a construct
- marriage as a right
- marriage as a purpose

7.1 Marriage as a Construct

7.1.1 Civil v Religious Construct

The concepts of civil and religious marriage often differ, marked by having distinct civil and religious ceremonies. In England, especially since the passage of the Hardwicke Act, marriages arranged through the established church have combined both concepts into one ¹ but the more recent trend towards civil registration of marriages has led to a divergence between the two.

In common with a long-established notion that marriage is between two people, witnessed by God (General Synod, 2009), rather than something which God does (as in other sacramental theology), the Marriage Service (eg Archbishops' Council, 2000) specifically refers to a *covenant* made by the couple themselves. Although this aspect has a long heritage, (Marshall & Parvis 2004, pp305ff) it remains popularly confused with the concept of *contract*.²

Today there is a quite separate process of civil marriage, which only requires a declaration of consent.³ There are no commitments, promises, vows or covenants required.⁴ All that is happening is process of registration, a legally-binding process that declares that a marriage now exists. In this model, marriage is a *status*, to which both parties have consented. It is left to other legislation to define what, if any, benefits and duties accrue to married couples.

This leads the Catholic Encyclopedia to say (in a US context) of Civil Marriage:

The municipal law deals with this status only as a civil institution. Though sometimes spoken of as a contract, marriage in the eyes of the municipal law is not a contract strictly speaking, but is a status resulting from the contract to marry (2007, Civil Marriage, p09691b).

It is also interesting to note that the flexibility of the civil ceremony allows other elements to be introduced which are not generally found in church liturgies.⁵

It is clear, therefore, that there is no single popular concept of marriage, even within the particular domain of civil marriages. For many it is limited to a formal registration that both partners now have a new status with regard to each other and that there is nothing – formally at least – beyond that. For others, there is still a strong desire to

incorporate elements from the religious heritage (but without the religious content) especially the notion of commitment. However, a civil marriage ceremony still has more of a flavour of a contractual commitment rather than a covenant relationship, one in which the commitment of one party is dependent and conditional on the fulfilment of the obligations by the other party.

7.1.2 Marriage as a Status

We have already identified that the civil notion of marriage is limited to that of status: two people are now declared to be in a particular relationship with each other. That status confers certain rights and duties which flow from other legislation which relies on the existence of such a status. These rights and duties are not conferred on other people who are not of the same status. Hence there is no general obstacle to extending the range of relationships so considered and civil partnerships are almost indistinguishable from civil marriages.

The civil concept is very different from the church's theological view. Whether or not it is considered to be a sacrament, there is generally the view that in some way God is connected to the relationship in a way that is beneficial to the enduring relationship.

This discussion of the difference between a civil and a Christian marriage highlights the problem that there are potentially considerable differences between the two. The distinction might be greater in countries where two ceremonies take place, although there is little evidence that in such places the church has evolved a sufficiently different understanding of marriage than that of contract. It is as if the church ceremony is merely recognising what has already taken place rather than necessarily adding a new dimension, especially insofar as the on-going relationship is concerned.⁶

7.1.3 Marriage as a Context for Procreation and Child Rearing

In early history, there was little distinction drawn between procreation and child rearing – the task was short since children became effective adults perhaps by the age of nine or less when they became economically significant. High levels of peri-natal, child and adult mortality gave the emphasis to breeding sufficient offspring to ensure survival.

Contemporary societies around the world at the start of the 21C still indicate the progression of change in this notion: in more developed societies, economic

circumstances⁷ have led to marked reductions on both fertility⁸ and family sizes. Children are increasingly seen as an unwelcome limitation on lifestyle ambitions.⁹

In China, with the apparently unstoppable rise in population as health improved in the second half of the twentieth century, the government felt compelled to introduce state enforced limits.

Conversely, the very sharp rise of HIV/AIDS in the African continent has led to a substantial drop in life expectancy¹⁰ with many children being born with the infection and having poor prospects from conception onwards.

Although there is archaeological evidence of contraceptive practices dating back at least two millennia (Taylor, 1997) it was not until the 19C that they became reliable and predictable.¹¹ Until then, the best that could be said is that they were used in the uncertain hope of marginal modification of the chances of conception. Indeed, whilst the role of women in the conception process remained unknown (that is, that women were simply containers for man's seed to develop) more effective control was only likely to emerge by chance than by design. Eventually, family sizes became the result of choice.

The consequence is that, in biblical times and for the following eighteen centuries, procreation was an almost inevitable consequence of marriage. To assert that procreation was *a* or *the* purpose of marriage was to describe a consequence and, more often, a theological statement about God's purpose, rather than of the married couple.

In 1999, The House of Bishops of the Church of England included the statement, "*In deciding to marry, a couple needs to consider what will be demanded by the tasks of parenthood and mutual support, and what the implications may be for the career of each*" (HOB, 1999, p3). There is the clear assumption that parenthood is the principal purpose of marriage, albeit accepting that there are other dimensions.

Even Thatcher (2007, p 227) still hankers after the notion that procreation is part of God's creative purpose as if quantity rather than quality was the over-arching criterion. Catholic teaching is clearly dependent on the assumption that 'more is

better' and that any decline in fertility rates is a worrying concern regarding the future of the human race (Pope Benedict XVI, 2006).

With the advent of effective choice in conception, the question has turned more to the intentions of the couple themselves – how do they view the purpose of marriage? It is little wonder therefore that attempts to use biblical texts to underpin teaching about procreation have proved difficult, even ineffective. The subtle shift in focus of whose intent is being assessed has often gone unnoticed, allowing statements which may well be valid in their original context to be applied to something quite different, without making any bridging justification.

Thatcher considers deliberate childlessness as distinct from a decision to limit family size, on the grounds that having had a given number of children somehow completes that contract with God. He asserts that, “*childlessness needs an exceptional case to be made for it, one which has not yet been fully made*” (2007, p230). Modern fertility technology increasingly creates a context that demands a better theology of procreation, encompassing our concern about the finiteness of the world’s resources; which recognises quality as well as quantity; and that a desire to perpetuate the human race is essentially instinctive rather than theological.

7.1.4 Marriage and the Delimitation and Control of Sexual Activity

Marriage, both formal and informal, became a public declaration that sexual activity between the partners was legitimate, that someone had checked that it was not consanguinous, that there were no other partners and that all necessary permissions had been obtained, including compliance with any social or state imposed limits such as the minimum age for sexual activity.

Any sexual activity outside marriage was taken as illegal, either in the state or religious sense. In the decades before the Matrimonial Causes Act 1974 (which is based on the concept of marriage breakdown) it was accepted that being found in an ‘compromising situation’ was proof that a couple had been engaging in forbidden sexual activity.¹²

More recently, the opposition to sexual activity between two people of the same sex has been underpinned by assumptions about the purpose of marriage. It is only necessary to show that a same-sex couple cannot procreate for them to be forbidden

marriage. The often not very covert intention is to use the definition of marriage as a means of forbidding same-sex activities.

7.1.5 Marriage as Companionship

The element of companionship in marriage has varied considerably over centuries. In some cases, marriage – especially amongst the wealthy – was solely for the purpose of generating heirs and successors without the necessity of any sense of love between the partners (Coleman, 2004, p51). In more common situations, the need for co-workers in the domestic economy was a driving force – a strong arm was more important than a pretty face, setting many a man's priority.¹³

Some writers, seeking to distance themselves from a male-dominated concept of marriage, talk about 'one flesh' and the importance of seeing marriage as the unity of two people. The equality of the partners is stressed and considerable weight given to the intention to share all things together (for example Pope John Paul II, 1979). However, it may be felt that some go too far in this regard and that there is a hidden sexist agenda lurking in the background. Implementing the 'one flesh' concept may easily lead to one partner dominating the choices – one partner being expected to accept meekly the wishes of the other. Male domination is so ingrained in the fabric of society, despite modern progress otherwise, that the preaching of 'one flesh' can be a covert synonym for female repression.

'One flesh' need not be about the elimination of individual identity, indeed it could be argued that stronger marriages are made from those couples who seek to maintain their distinct individualities. If companionship is at the head of the priorities for the purpose of a marriage, then it seems much more likely that the couple can work out what they hold in common and what they exercise independently. Both partners may allow each other space and opportunity to develop separate careers, each making allowances for the needs of the other in the pursuit of these independent goals. It may also be that each has quite different non-work interests which make substantial demands on resources of money or energy.

Marriage as companionship may be seen in its absence as much as its presence. Whitehorn (2005) wrote movingly from her own experience of widowhood. She highlights what life with her husband had meant, as much by what she missed after his death as what she recognised at the time. She identifies that there are two parts to

the experience, “*There’s missing the actual man*” is the more obvious, but she goes on to identify something further which is, perhaps, at the heart of what many Christian writers have sought to see in marriage itself, something which is more than just the sum of the two individuals, “*But marriage is also the water in which you swim*” she continues as she shares with her readers what it is like to lose the origin of what it had meant to create a shared household, something which was not just him and her, but – in effect – a marriage.¹⁴

Companionship as an over-riding goal is more readily seen as a mutual and non-biased framework for marriage – replacing the inevitably biased goal of procreation.

However, we now run into a conundrum: if the only necessary and sufficient condition to identify marriage is the companionship element we run the risk of including more relationships than intended. It may not be helpful if we opt for a definition that is so general it cannot identify relationships which are not marriages.

7.1.6 Cohabitation

Thatcher (1999, 2002, 2007) has made much of cohabitation and has sought to distinguish those relationships where living together is a deliberate pre-cursor to eventual marriage from those with no conscious intent to marry, including those who expect to maintain as long-term cohabitation and a family as well as those who engage in a series of short-term relationships. In contrast, Reibstein concludes that “*committed cohabitations that last, as far as research thus far can tell, are mostly different to marriage in legal status only. ... cohabiting couples ... who both last and stay happy together are essentially the same as those who marry*” (2006, pp12-13).

7.1.7 Marriage as Friendship

It is worth examining the difference between *companionship* and *friendship*, and how the latter has evolved in contemporary society. Wilson, in looking at the phenomenon of singleness, writes about friendship, especially in regard to whether not the church is successful in promoting both friendship and friends. In fact, he seems to conclude that, although friendship is a central theme in Jesus’ lifestyle, the church of today is particularly bad about ‘friends’, “*it seems that most churches have a stubborn tendency to be filled with people who know little or nothing of much significance about each other*” (2005, p193). He is, of course, preoccupied by the way in which the church supports single people, in an atmosphere that is sometimes oppressively about family. Wilson asserts

from his research that the church is substantially worse at supporting the needs of single people than those who are married. In particular, he accuses the church of failing to provide an atmosphere in which friendship can flourish.

It is important, however, to recognise what he is also saying about society as a whole. He describes friendship as:

Friendships can be sheer hard work. Boundaries with some friends fall into place more easily than with others. Our friends may let us down and forget us and make life unbearable to such an extent that we can sometimes wish that they were not there at all. Being a good friend means we will forgo ... our own right to space and privacy. It means we will do such things as answer the phone and open the front door to people whom we may find quite exhausting, at times that may be inconvenient to us (2005, p194).

It is easy to see how contemporary society has blurred the boundaries between friendship, companionship and marriage. Indeed, the quotation above could easily have been written to describe the attitudes that should underpin a lifetime marriage: the willingness to sacrifice the self in pursuit of the needs of the other, even in times when the net return is self-evidently negative. Herein we again see a difference between a contractual and covenant relationship.

It is little wonder, therefore, that many couples who have established a friendship – one of perhaps three close relationships¹⁵ outside their immediate family – slip into marriage without being prepared to recognise a clear change in the nature of that relationship. Indeed, given the trends both to time-limited living-together arrangements and to shorter, serial marriages, it is doubtful if many see any clear distinction at all.

Sexual activity does not make a distinction either. Whilst in the decades leading up to up to then 1960's there was a clear expectation that sexual intercourse was normally the preserve of married couples, this is no longer the case. Today, however, there is little to suggest to most young people that sex shortly after encounter is other than a norm or that sexual intercourse before the age of 16 is wrong.

Over the past century or two, most people in Western societies came to believe that marriage should be preceded by friendship, not least with the growth of the romantic

ideal. Because marriage is for life, it was asserted, it is important that the couple come to know each other as friends before they commit themselves in a marriage vow.

Thatcher (2002) takes this a step further by advocating a return to *betrothal* as a transition phase from friendship to marriage. Even so, he still presumes that sexually-expressed friendship will always anticipate marriage.¹⁶

7.2 *Marriage as a Right*

7.2.1 *The Right To Marry*

It is widely held that there is a basic right for men and women to marry¹⁷ and although it may even be thought self evident that such a right exists, it was not always thus. In Roman legislation, only selected citizens could marry freely (Dormor, 2004, p48) whilst many countries established limitations (beyond the standard ones of consanguinity) on the rights of nobility to marry whom they chose. In some cases these restrictions still remain.¹⁸

When slavery remained in existence, the bringing together of couples in a child-rearing relationship would be determined by the slave owner, much like animal husbandry, to produce more slaves as offspring and could be terminated similarly if one slave was sold. The characteristics of marriage that many subsequently came to see as essential – permanence, exclusive and children – could not be aspired to by many.

Various societies have, at some stage in their development, introduced miscegenation laws. In the US, the Virginia state law was not repealed until 1967 as a result of the *Loving v Virginia* case taken to the Supreme Court:

Freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men. Marriage is one of the 'basic civil rights of man', fundamental to our very existence and survival (1967, Section II)

However, it seems that it is more widely accepted that the ruling gives a *freedom* to marry, rather than a *right* to do so.

At the time, the Hardwicke Act was seen by many as an infringement on individual liberties. Walpole, quoted by Dormor, said, “*It was amazing in a country where liberty*

gives choice ... a law promulgated that cramped inclination" (2004, p60). It took eight attempts to pass legislation and was motivated by the desire to prevent hasty and unsuitable marriages, especially where there was wealth and property to be inherited. (Coleman, 2004).¹⁹

Outhwaite makes it clear that there was a widespread view at the time of the Hardwicke Act that marriage was not a universal right and that, if the new law restricted access to the status, then it was for the better, "*What mattered, riposted Leman, was not the number of people, but the number of useful people. He was not alone in arguing that some good might come from building delays into the marriage process*" (1995, p107).

Since the Act largely pre-dated the growth of the notion of romantic love, attention was increasingly thrown on the decision of the couple to marry, rather than on the families to permit or to require it. However, Dormor (2004, p60) takes the view that the legislation "*ceded power from the individual to the state*".²⁰

There is limited evidence that, for an underclass, formal marriage by the church and state was ignored (Outhwaite, 1995, p135) at least for the next century until civil marriages were introduced in 1836. Since 1981, more than half of all marriages take place in a civil form (Kasriel & Goodacre, 2007, p6).

The present situation is that couples have the right to have their relationship formally recognised (subject to legal limitations) regardless of their intentions about sexual activity or child bearing.²¹ The right to marry is not conditional upon the *ability* to have children.

This brings into question the earlier presupposition that an inability or even unwillingness to consummate the marriage meant that the marriage could be considered null from the outset and so could be set aside without recourse to a divorce. Failure to produce children could be grounds for nullity.

7.2.2 *The Right To Have Children*

There is a widespread belief that there is a *right* to child bearing. There seems to have been little examination of this claim but Warnock (2002) makes an attempt. In the strict context of her analysis she concludes that, almost self-evidently, there is no right

to have a child, only a right to *try* to have a child. However, there is a *duty* on doctors to use reasonable means to assist those who seek help. This is consistent with the duty of the state to assist individuals in the exercise of their rights.

In the case of learning disability, this conclusion is generally helpful, indicating that such couples do indeed have a right to attempt conception but that their carers only have a duty of reasonable action. The fact that a couple may need assistance in parenting is not confined to learning disability - Warnock suggests that requiring such help is not a reason to refuse assistance with conception.²²

Whilst she emphasises the limited sense in which people have a right to try to conceive, it would appear that there must also be a corresponding right to try to *avoid* conception. For if such a balancing right did not exist then there would be a compulsion to seek all available means to conceive in whatever circumstances. This conclusion is one which she does not seem to endorse.

The advent of varying degrees of medical intervention in the process of conception bring new ethical issues. As a result, the traditional teachings of various Christian denominations, especially the current views expressed by the Vatican, fail to provide adequate help – evidenced by the very large numbers of the Catholic church who ignore some parts of that teaching.

For a long time there have been contraceptive methods available and whilst they may not have been very efficacious until the late twentieth century, we are here dealing with intent. Their use was *intended* to limit the rate of conception. In the past the choice was between²³:

- trying to conceive through frequent ‘natural’ intercourse
- passive abstention (e.g. rhythm method, coitus interruptus)
- active abstention through contraception

A problem for modern society lies in the extent to which traditional teaching emphasised positive action. When there were no means available for assisting conception there was no obvious problem with encouraging couples to try as hard as possible to conceive. The legacy is a widespread instinctive feeling that couples should be using all available means to conceive. When this meant avoiding active

contraception and having frequent intercourse, there was no difficulty but some of the means now available for assisting conception raise clear moral issues.

It is now necessary to consider how far couples may pursue the objective of conception using methods which are available but for which there may be other considerations – the techniques may involve doing something which is otherwise considered unethical (e.g. donor insemination) or have potential implications (e.g. disposal of fertilised eggs).

But even at the end of Warnock's discussion we are no better off in being able to decide what intervention is 'right' and what is 'wrong'. She herself tends to a utilitarian view which essentially depends on an analysis of outcome.²⁴

Returning to the obligation in the parenting role, we remain in some difficulty. Are couples expected or entitled to use any technique to achieve conception that technology can devise and which can be shown to be safe?

In some ways this challenge is not unlike the Levirate law of Yibbum (Deut 25:5) for ancient Judaism. If a man died without an heir, it was the responsibility of the brother to inseminate the widow to ensure the genetic heritage. No matter that such intercourse later became a proscribed form of incest, the genetic imperative was, for a time, the greater principle.

Since a modern application of the same imperative leads, in some minds, to potentially unacceptable actions – cloning, surrogacy – it may be necessary to temper the strength of the procreative imperative with other factors. In so doing we run into difficulties with the continuing Vatican teaching about contraception. If we maintain the obligation for married couples to procreate, how do we limit that obligation and yet not, by implication, legitimise any form of *contraception*, including even abortion?

In *Forbidding Wrong in Islam*, Cook (2003) takes an in-depth look at the principles underlying the way in which right and wrong are to be analysed and treated.

Oversimplifying and leaving to one side a large number of implications, the principle of 'Commanding Right and Forbidding Wrong' leads to a discrimination between, on the one hand, those things which are a duty to command or forbid that which is 'right'

or 'wrong' from, on the other hand, those things which are 'good' or 'bad'. Although the latter are not absolutely required or barred at whatever cost (that is a duty or obligation), they may or may not be permitted depending on an analysis of both intent and outcome.²⁵

Such graduated responses to ethical issues that combine both inherent characteristics and those of outcome (utilitarian) may indeed provide a way out of the dilemma at which we arrived earlier (things must be either right or wrong, allowed or barred). Unless we are prepared to accept the principles of Situational Ethics, then we need to find a better solution, which Uncertain Theology in a later chapter attempts to provide.

This brings us close to Warnock's conclusion which sometimes seems disconnected from her utilitarian base. Whilst she can see no absolute reason to ban surrogacy – if only because such a ban is unlikely to be effective – she does not commend the process in the light of potential dangers. Even so she does not resort to an inherent 'wrongness' as that lies outwith her utilitarian medical principles.

Hence we may conclude that whilst there is no *obligation* to pursue conception by such extremes as surrogacy, there may be times when it is *permitted* and, *in extremis* it may even be *good* to do so.

So far we have considered in isolation the right to have a child – a right for the potential parent or parents - separate from any other consideration.

However, we need also to consider whether any rights accrue to a future child. This situation is more complex because we are talking about rights of someone who does not exist, at the time the right to have a child is exercised. We may have to consider if it is possible to talk about the rights of someone who does not exist, whether the idea of a person, or the hope for a person, can also be considered to *be* a person.

Some genetic conditions, not necessarily limited to people with a learning disability of genetic origin, carry with them a very high probability that any child will themselves be substantially disabled. There may be circumstances under which it is necessary to say that the right to have a child is subordinated to the rights of a future child to have

a healthy life. Society may be called upon to exercise such a right on behalf of the future child.

For many people reacting instinctively, there is a difficulty in allowing people to have a child where there is a high probability of major disability. This is most clearly seen in the case of adults with a learning disability – establishing their rights to children involves modifying widespread popular opinion.

If it is believed that marriage carries with it a procreative obligation, it is tempting to say that adults with a learning disability may not marry, specifically because of their claimed parental deficiencies.

In the case of assisted parenthood (whether by fertility treatment or adoption) society has established the right of the state to moderate access to support and not to provide it to those who fail to meet some standard of parenting ability. Such a condition does not exist for other potential parents. In the case of assisted parenthood, the rights of future children (or existing ones in the case of applications to adopt a child) over-ride the rights of the potential parent.²⁶ Yet the state does not consider that it can prevent the same parents from having a child 'naturally'. Where the treatment is expensive and available from state resources, clinicians are reluctant to assist conception for those who are seen to be unsuitable as parents, including grounds of age.

If it is agreed that a future child (not yet conceived) has rights, it may be possible for a child to sue its parents if they take insufficient care to prevent the conception of a child with a learning disability. If this were so, then the basis on which a person is designated as having a learning disability would be subject to detailed scrutiny to establish liability and we have already identified the present lack of absolute criteria.

Agencies providing sperm for donation characterise the donor according to traits which potential parents may consider desirable – skin colour, intellectual ability, physical skills and so on. On the one hand we may question whether selection on this basis is right and is in the same category as embryo selection, which is also ethically questionable. On the other hand, we may also believe that parents have a duty to maximise the life satisfaction of their children, giving them 'the best start in life'. In

which case we might conclude that *not* to make such selection is irresponsible, even negligent.

Hauerwas rejects the notion of *choosing* children:

*I want to suggest that it is an extremely odd idea that we **choose** our children. In fact, from our having and rearing children, we know we do not so much choose them, as we discover them as gifts that are not of our making (1977a, p153).*

Whilst it is true that this was written originally in 1977, before some of the techniques which are currently available for selection were developed, Hauerwas was clearly aware of the technological possibility, yet he rejects it. Such rejection may have sounded agreeable when written but clearly does not enjoy universal consent today.

The ethical issues become more complex with the arrival of *saviour siblings*.²⁷ At present the law permits such practices and an attempt to make them illegal was explicitly rejected (BBC, 2008b). Leaving aside the issues to do with embryo selection *per se*, the specific consideration here is whether it is right to endanger the welfare of a subsequent child solely for the benefit of an existing one. At present, the cases so far considered are generally neutral with regard to the embryo (other than the dangers arising from the selection process) but it would be altogether more complex if the saviour aspect required a negative implication for the embryonic child.²⁸

7.2.3 The Duty To Have Children

In the previous section we looked at whether there is a *right* to have children but some of the issues we need to resolve also throw up the question of whether there is also a *duty* to have children. Certainly the traditional teaching of the Catholic church on contraception seems to suggest that such a duty does exist. The argument against contraception indicates that either there is such a duty or, alternatively, that the issue is decided entirely by God. In other words, no human intervention in the lottery of conception is possible.

If a marriage is considered not to have come fully into existence until the partners have had sexual intercourse, it follows that there is a duty to do so. This indicates further that there is a duty to *try* to have children or at least to enter the lottery. Otherwise, we would be left with the situation that there was an obligation to have sexual intercourse for reasons other than procreation, presumably because of the need

to meet the physical and emotional needs of one or both partners, the companionship element of marriage.²⁹

In the parts of history where no medical technology existed to influence the outcome of the lottery of conception, it is possible to stop at the point at which the duty is just that of trying to have children, being open to the will of God. Until the mechanics of conception were understood, at the micro-biological level, even the notion of *contraception* was vague and this aspect of marriage theology and the teaching of the church is very much an interpretation of scripture and older teachings about marriage. In more recent times the Catholic church has admitted some ambivalence insofar as it has endorsed the so-called *Rhythm Method* for avoiding conception. This method requires conscious inaction on the part of at least the woman, if not necessarily the man, who must therefore have in mind that the duty to have a child may be offset by other considerations. The only real question in that scenario is how far may a married couple go in influencing the conception lottery.

On the other hand, not everyone believes that such a duty does exist. Townsend comments on 1 Sam vv 20-28 regarding attitudes towards childlessness, "*Our preaching must be sensitive to pastoral issues. Some people are unable to have children and it is a source of great sadness; others deliberately choose to be childless and it is a valid Christian choice*" (2002, p54).

Technology has now moved forward and there is much emphasis on assisting conception for those who fail to conceive 'naturally'. The very language which is used immediately emphasises that adopting the technology is to invite 'unnatural' conception. But as in every other aspect of human medicine and, indeed, the environment around us, human beings seek to modify what occurs naturally in order to achieve particular objectives. In most cases the right to benefit from technological advances has been clearly established. Legal cases have been brought in recent times (BBC, 2004) which have sought to establish that patients have a right to receive all available treatment. Equally, other patients have sought the right to refuse treatment (Anon, 2007a).³⁰

In a statement on euthanasia, the Vatican has said, "*Therefore one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a*

risk or is burdensome” (Vatican, 1980, Section IV). In other words, even in circumstances where an action is otherwise an over-riding obligation, such a duty can be offset by extreme consequences.

In our current context, this must surely indicate that even if there is a case against contraception and abortion there may be circumstances where the consequences are too extreme to demand adherence. Equally, even if there is normally an over-arching expectation that couples aim at procreation, this duty may be set aside if the only means available is disproportionate, especially if it involves techniques where there are other ethical contra-indications.

Controversy continues in the economic domain on the recognition that there is a cost attached to all treatments and society does not have unlimited resources to meet every need. Organisations such as the National Institute for Clinical Excellence have considered whether there is a positive balance between the cost of the treatment and the extent of its likely outcomes. Too few successes or too high a cost and a potentially life-saving or life-enhancing drug is not available to NHS patients.³¹

The technology for assisted conception is well beyond the experimental stage, even if its outcome is not always guaranteed. We therefore have to go beyond the question of whether it is right to use these methods to achieve conception, to ask whether there is also a duty to use them. If there is an over-riding duty on a married couple to procreate with ‘natural’ methods then surely there has to be an extension of such a duty when assistance is available. Otherwise, choosing *not* to use such assistance amounts to a decision not to procreate, a decision which is as real as using the Rhythm Method or contraception.

If it is possible to posit the refusal of treatment, either by the recipient, the physician or the political economist, then we must accept that in some way the possible duty to have children is diminished or that an absolute duty to procreate does not exist. This will be uncomfortable for some church authorities, especially those that have placed a higher priority on child bearing than other aspects of what constitutes a marriage.

When we come to examine the case of post-menopausal marriages, this issue becomes of greater importance. Hitherto, it has been possible to assume that the theological

issue is whether someone who has no prospect of child-bearing can indeed be married. However, assisted conception technologies are beginning to enable post-menopausal women to carry embryos fertilised *in vitro* successfully to full term. Before long it will not only be necessary to decide whether such treatments are ethically and theologically sound, but also what impact they may have on a duty to avail oneself of them.

7.3 *Marriage as a Purpose*

We looked earlier at the nature of marriage as an objective reality but now we turn to the teleological question. There are two distinct ways in which we shall look at marriage as a purpose:

- marriage in order to deliver certain goods
- marriage in relationship with God

We have seen that there is an expectation that we can produce a definition that does not necessarily imply either of the following:

- contractual commitment
- potential for procreation

and, furthermore, that the relationship between a married couple and their children has undergone major shifts in the past 100 years, changes which continue unabated.

Christian theology asks the teleological question “What is the purpose of Marriage?” from which flows some of the moral imperatives which have been espoused by the church for a long time. For example, how does the procreative purpose for marriage sit in relation to other aspects such as the companionship or unitive end? (ECUSA, 2005, p27). Grosbard-Schectman establishes an explicitly economic model of marriage:

exploring more in depth how marriage possibly influences labor supply and workers' productivity and by presenting analyses of other channels by which marriage may have an impact on the economy: savings, consumption, and government programs such as welfare programs and social security (2003, p1).

We may also wish to examine the assertion that God created marriage: for example, Jeffrey wrote, “*The fundamental truth regarding marriage has always been that God invented marriage*” (2006, p xii). This start point is widespread yet is often asserted without

question, based largely on tracing it so far back in the teaching of the church that its origins are no longer needed. To the unbeliever, it is patently obvious that humanity, not God, invented marriage – as distinct from sexuality and enduring partnerships which seem to arise from the nature of human beings.

If we are to rely on an assertion that marriage is God-given then we have to come to terms with the fact that marriage has, and continues to have, many different expressions and interpretations. Are all of these God-given or are we required to select one from the many and to promote that above all others, not only now but forever? Or perhaps we need to see marriage as a man-made construct (most frequently, literally *man* made!) and then seek to find out what it is that God is telling us to do with that construct, in much the same way as, for instance, we might need to understand God's will for the use of nuclear power.

It is difficult to conclude other than that there are many different forms and natures of marriage, depending on culture, social and religious context as well as the intentions (covert or explicit) of the participating couple. To survive effectively through periods of such change it is highly desirable to seek a theology of marriage which probes deeper into the construct and establishes an understanding of its nature so that it can speak both with legitimacy and effect to the generality of marriage. Any theology which becomes ever-more specific about what is considered acceptable inside or outside the boundaries of Christian or secular marriage is doomed to long term failure. The problem is less that changes have to be made, more that the authority of the church and of scripture becomes undermined.

7.3.1 Marriage and the Delivery of Goods

Whilst we have separated out marriage as an observable phenomenon from consideration of its purpose, one way of looking at purpose is, in a sense, a technological or engineering³² one: that is, marriage should be constructed in particular ways so that it functions to deliver specified goods, in the same way that a piece of machinery or equipment may be designed to fulfil required operations.

It is important to recognise that this consideration is quite different from the Evidential process. We may however wish to measure the extent to which particular forms of marriage actually meet society's expectations in the delivery of its goods, whether, for instance, it helps or hinders the effective process of rearing children?.

Despite the difficulty of obtaining objective and verifiable evidence, support for marriage is frequently justified on the basis that it will deliver certain goods, such as better behaved children, receptive to better education, less prone to criminal or anti-social behaviours and so on although most attempts to justify this link lack evidential rigour. As a consequence, the general tendency is, in effect, to underwrite a prior belief

In truth, we do not know whether, even on limited timescales, marriage – or any other form of relationship – does deliver particular goods. A greater problem lies in obtaining agreement on what goods we might want to see delivered and what is the balance between benefits to the married couple and those which accrue to others: children or society.

7.3.2 Marriage as a Paradigm

Marriage has long been used (e.g. Hosea 2:16-23, Isaiah 62, Jeremiah, Ezekiel 16) as a paradigm for the covenant which exists between God and humanity. Most of the OT allusions are to the loving and caring relationship rather than to procreation or family formation – these have little sense in such a paradigm.

More recently:

The description of Christian marriage as a 'sacrament' ... means that the pledged relation of husband and wife is a sign of the pledge of love that Christ has for his Church, the promises he has made to it, the faithfulness, forgiveness, and patience that he has shown it, the delight he takes in it (House of Bishops, 1999, p4).

But in the context of Evidential Theology, we must at least question the basis for this assertion. That is to say, the evidence indicates that the idea of marriage has continually been subject to change in response to a wide variety of factors: cultural, religious, political, health and so on. Evidence (Coontz, 2006d, p 6) indicates that marriage first emerged in the Stone Age, that is, well after the origins of humans but before the development of a Judeo-Christian theology that we might recognise today. To suggest that marriage was created by God – at least in a way more specific than a recognition that we trace everything back to God – would require us to posit a time-specific intervention. The evidence is that it has always been human-made to meet particular needs.

We certainly struggle with a scriptural basis since so many different versions of marriage existed over the time-frame in which it was written. If we defend the assertion on the basis that it 'is natural' we must either show that there is no other form of enduring relationship in nature or that any alternatives are self-evidently malformed. Otherwise, the most that we can conclude is that there is a presumption in favour of marriage – and then run into difficulty with such notions as religious celibacy (which are commended but clearly 'unnatural')

Williams wrote:

Christian teaching about sex is not a set of isolated prohibitions; it is an integral part of what the Bible has to say about living in such a way that our lives communicate the character of God. Marriage has a unique place because it speaks of an absolute faithfulness, a covenant of God with his chosen, a covenant between radically different partners (2005a, Section II).

However, there is the danger of a major logical flaw in too tightly following this course of thinking: On the one hand, generations have used the model of marriage (as seen in their own contemporary interpretation) as a means of understanding the relationship between God and humanity. It is potentially helpful to use expressions such as, “*the relationship between God and humanity is like ...*” for we can do no other. We have no complete knowledge of what the God-humanity relationship is but rather, shadowy indications, partial knowledge that is shared amongst all people, both past, present and future .

We are here clearly using something that is more than a status relationship – the attractiveness of marriage is as a paradigm. Marriage is the most common covenant relationship and is easily accessible to those seeking to describe the God-humanity relationship.

But the danger lies in what follows: whilst we can consider the claim that, “*the relationship between God and humanity is like ...*” we cannot then turn it around and say that marriage must be like this just because it is a paradigm for the relationship between God and humanity. But this is exactly what some have tried to do, with sometimes disastrous consequences. Williams:

And those who have criticised the blessing of same-sex partnerships have been trying, I think, to say that we cannot change what we say about marriage

without upsetting what you might call the ecology of our teaching, the balance of how we show and speak of God (2005a, Section II).

It is as if we have now defined God by means of a particular form of marriage and we must not change that form of marriage lest we then change our definition of God.

Many of Pope Benedict XVI's statements follow this path.

Not only is this a *non sequitur*, but it carries with it the greater danger that we believe we can *define* God, something which goes infinitely beyond our attempts to *describe* God. To continue to use marriage as a paradigm depends, therefore, on whether we continue to believe that the phenomenon which we contemporaneously see as marriage remains consistent with what we believe the relationship between us and God to be. What we most definitely cannot reasonably do is to invert that process and say that marriage must be shaped according to our (changing) view of God. It can serve as a paradigm only insofar as it retains that value. We cannot claim that marriage was established *in order that* we should know more about God. Instead, we must adapt our perception of marriage in the light of developments in our understanding the nature of God's continuing incarnation.

Marriage, as we have already seen, has been and will in the future become, expressed in many different forms, none of which is an ideal paradigm, especially if we consider the actuality of it, rather than an idealised abstraction of what we believe it ought to be. There is a very real danger that, in order that marriage may serve as this paradigm for how we understand God, that it becomes an impossible burden on actual marriages to the extent that increasing numbers of people ignore the expectations it sets.

The use of marriage as a paradigm can seem at times as being cited without recognition of the more obvious defects. These problems include a contrast between our concept of God as a Trinity (seeing marriage as a model of the relationships between the three aspects of God) and marriage as (generally) about two people.

The Inter Anglican Theological and Doctrinal Commission (IATDC, 2006) sets out a lengthy but modern analysis of the use of covenant to describe not only the relationship between God and the world but also how that understanding can be extended into the notion of 'covenant community'. In other words, how our

perception of how God relates to humanity can inform how humanity should relate to itself.

Whilst admitting that there are many and, sometimes, confusing ways in which the term *covenant* is used (even within the Christian theological context) IATDC does call (para 1.9) for all new developments to be seen as an outworking of the basic concept – in particular a re-commitment to the ‘new covenant’ established by Christ, “*God is under no obligation to rescue humans, and the world, from their plight, but chooses to do so and takes the initiative to bring it about*” (para 1.2).

The document also emphasises the significance that God sustains the covenant with humanity, regardless of how far humanity may stray from his chosen principles (IATDC, 2006, para 1.3). In this way it is possible to see God’s covenant as a template for marriage between two humans rather than the converse. If it is possible to make this switch then it is also possible to accept that the concept of marriage can evolve in parallel with the collective understanding of God’s covenant.

If we look at the relationship between God and humanity then we also have a problem as, for most people, marriage has some element of exclusivity – one person bound in a relationship with *one* other person, not in a relationship with the generality of humanity. We have different models for the wider relationship: friendship, social conscience.

God is necessarily asexual whilst marriage is inevitably about sexuality and reproduction.³³ We cannot associate sexuality with God, at least in the sense that we maintain that God is singular, complete and eternal. God not only *cannot* reproduce (the essential origin of sexuality) but further, does not *need* to reproduce. God is permanent and eternal; sexuality is nature’s response to the inherent finite nature of all living things whose future is bound to the ability to reproduce rather than to attain immortality.

As we contemplate the nature of the relationship between God and humanity, we learn more about how we should interact with each other as fellow human beings rather than the specifics of a marriage. It may well be that the marriage relationship is the general human relationship writ large, but if we are to seek to justify claims that

marriage is more than just friendship (which we can move into and out of just so long as that friendship exceeds a given threshold) we need to discover something about marriage that is more than and distinct from the relationship between God and humanity.

However, it may well be that some of the older parts of scripture become misrepresented or misunderstood as contemporary models of marriage become overlaid on the original text. In particular, it is important to recognise that the understanding of how procreation took place was very different. It was believed that the woman was merely the receptacle for the man's seed which was poured out into the womb for the woman to nurture on his behalf. Not only was it *his* seed but also the ensuing children were his, as matter of property.

Therefore, to say that God took humanity as his bride (e.g. Isaiah 62) is likely to have been read contemporaneously as indicating that God sought to entrust his divine purpose to humankind who were expected to nurture and develop it, just as a woman would do so on behalf of the man.

7.3.3 Marriage as a Model of Perfection

The civil concept of marriage is objective and thus amoral. It is defined as a status, something which can be proved easily, by reference to witnessed documents. It is therefore not possible, in the terms of that language, to talk about a *good* or a *bad* marriage – marriage simply exists, or does not, for a specified couple. Marriage is a status which you either have or not.

We can subsequently consider the quality of a marriage in terms, perhaps, of its durability (easy to measure) or its effectiveness in parenting (hard but possible to measure in part) or its ability to create love and support the one for the other (impossible to measure from outside). However, there is no room in this model for the concept of perfection, there is no goal at which to aim. It does what it does - although both as society and as individuals we can seek to change the performance of marriage as an institution by external measures (such as financial benefits or marriage preparation).

Christianity has specifically adopted its particular definition of marriage as a paradigm for the relationship between God and humanity. Leaving to one side the difficulties

which arise if we force the definition of marriage to fit a particular pre-determined view of that relationship, we can in this context talk about a *perfect* marriage. It – the notion of perfection – derives from our view of God as perfection. Marriage tends towards perfection just as its performance tends towards this model of God.

To access a definition of Godly perfection requires interpretation and revelation. Humanity attempts interpretation based on its assumption or experience of what God has revealed through his continuing incarnation in and through the world. But the consequence of our humanity is that this process is flawed and too often we seek to define as revelation that which we wish to be our interpretation. God, in effect, becomes made in the image of humankind, rather than the reverse.

Is this a necessary direction? Isherwood (Isherwood & Stuart, 1998) and others who share a strongly incarnational theology, point to the difficulties that the First Century Hellenic traditions brought to the Judeo-Christian theology in its formative stages. Paul clearly tried to interpret the emerging Christian concept for those more familiar with the Hellenic ideas. In particular, Greek gods were, for the most part, humans which had been transformed from their imperfect state into an ideal of perfection – which included immortality. This persisted, despite the collective memory of events a couple centuries earlier when the temple was desecrated by Antiochus IV in a ferocious attempt to Hellenise the Jewish nation. (1 Macc)

On the other hand, the specific Christian notion of incarnation is about God becoming human, with all the risks that it entails. The movement is in the opposite direction, as it were. There is no longer a need to define perfection – what matters more is our ability as humans to engage with the incarnational process which is no longer bound into the time dimension. It is not so much that incarnation is continuous as that it happens in a dimension outside of the dimensions of space and time so that we perceive it as continuing.

In the context of marriage – and indeed other expressions of relationship – we seek to align both our expectation and our practice in a never-ending process of evolution which is forced to change every time we engage with the incarnation. Just as our knowledge of God, what God is like and what God expects of us, is never complete but yet moves forward (mostly!) so our expectations of marriage should develop and

move forward. It is not for us to define what marriage *must* be like any more than we can say that the revelation of God is complete.

In this context we can seek to answer the teleological question, “*What is the purpose of marriage?*” in different ways. On the one hand we can look at the pragmatic consequences of a civil marriage, how well it achieves its ends. On the other hand, we can also consider how our experience of marriage leads us to a better engagement with the process of incarnation.

What does not seem helpful, or indeed logical, is to answer the question in terms that require the institution made by humanity to fit into a specific model of God. That will neither satisfy the objective answer related to performance in respect of human requirements, nor does it satisfy our desire to know more about God, through incarnation.

Since the earliest Christian times, the church has sought to define marriage, and its ideal of perfection, through its attitudes to sexual activity.³⁴ Augustine and his followers started from the assumption that sexual activity was inherently sinful (related to views on the belief that the Fall was in some way a direct consequence of the gender interactions between Adam and Eve). From there he concluded that, for marriage to be a model of perfection, it had to exclude sexual behaviour, even in pursuit of procreation, to such an extent that abstinence, either within marriage or without, was the only course of action to be commended for true Christian behaviour.

Doriani (1996, p33 ff) traces the reaction of the Puritans and cites Gouge in saying, “*One of the best remedies for adultery that can be prescribed to married persons is that husband and wife mutually delight in each other*” (1996, p38). In fact, not only is the conclusion the opposite to Augustine’s but so also is the direction of the argument. Whilst the Augustinian view moved from a belief about sexual activity to advice about marriage, the Puritans began with the assumption that marriage aimed to be a model of perfection and therefore sexual activity, as a necessary component of that, was itself intrinsically perfect - provided, of course, that it took place within marriage and subservient to a procreational end. In any event, many Puritans were so taken by their perceived duty to engage in sexual activity within marriage in a way so as to glorify

God that they failed to commend it for itself. Sexual activity was still seen as a means to an end, even if in this case it was as much a religious end as anything else. However, in a way that anticipates the egalitarian and feminist movements several centuries later, Doriani identifies (1996, p42) that, whilst marriage is in theory an ideal institution, in practice it is open to abuse. He also concludes that the Puritans “*could not rid themselves of the Greek and Roman Catholic idea that lust taints the procreative act so that it is shameful*” (1996, p44). It is also consistent with the evidence that he cites that the constraints which the Puritans placed on sexual activity (especially adultery) were a consequence of their high ideals about what objects sexual behaviour was intended to serve. If marriage is intended to be a sacred institution, ideally perfection, then there is an over-riding Christian duty to do everything to preserve that perfection and to urge others to the same ideal.

7.3.4 Marriage as a Sacrament

At the beginning of this thesis (section 1.2) we noted the range of ways in which marriage has been considered as a sacrament and I now return to this aspect³⁵ in the light of the considerations thus far. (We need to remind ourselves that marriage refers both to an event and to an enduring relationship and to be vigilant that statements about one are not elided into the other without careful consideration).

The Catholic church retains marriage as one of seven sacraments, all of comparable status. This was firmly established by the Council of Trent but had made its way into church considerations a little earlier such as in the Council of Florence, “*The first five sacraments are intended to secure the spiritual. perfection of every man individually; the two last are ordained for the governance and increase of the Church . . . by matrimony it [the Church] is materially increased*” (Decree for the Armenians, Council of Florence 1439).³⁶

Today, the Catechism says, “*The matrimonial covenant . . . has been raised by Christ the Lord to the dignity of a sacrament*” (Section Two, Chapter Three, Article 7) and continues to assert marriage as a liturgical sacrament and something with which the church is necessarily involved despite the fact that, in essence, it is the spouses who act as ministers of God's grace to confer the sacrament on each other.

The clear emphasis is on the sacramental nature of the *event* which is to invoke God's commitment to effect grace through the on-going partnership, as seen in various statements of Jesus recorded in scripture. This view does not directly suggest that the

shared life after the marriage event is itself a sacrament – it might be more helpful if it did indeed have this focus.

The traditional view of sacraments, including marriage, is explored by Hahn (2004) who makes few, if any, concessions for the issues which have been raised in this thesis. Since I will conclude this section on a positive note with regard to a possible sacramental view of marriage, it is worth exploring a little further how far Hahn's particular view is helpful.

He is strongly attached to the number seven and seems to depend entirely on a presumed mystical quality of the number, almost magical. He even uses the subtitle *Lucky Sevens* (p103). As a result he will not admit *any* variation on the set of seven sacraments which are in the Catholic tradition but which do not form a comparable role in the reformed/protestant/Anglican canon. (also p146)

Consequently, he is very specific that marriage “*involves one man and one woman*” (p41) and is indissoluble (p55) once consummated (ie allowing the historic loophole of declaring marriage null on account on non-consummation). There is therefore no room whatsoever for any other form of covenant relationship between sexual partners, including those divorced from a prior marriage. He leaves little room for marriage being valid in just the circumstances in which my thesis is set to consider. “*it (marriage) must be faithful, monogamous, indissoluble and fruitful*” to be valid (p158)

His concept of oath (and there is generally an assumed equivalence between oath and covenant which is not substantiated) and sacrament seems at times contradictory: On p124 he states that the consequence of an oath is that, “*He (God) has to act to vindicate his holy name*”. That is, the outcome will be successful regardless of the human element. And also “*When God's name is used in an oath, He becomes an active partner in the transaction*”. (p136) Yet, on p126 he says, more realistically, that “*the sacraments do not guarantee our fidelity*” - (Hahn's emphasis). As I consider later in Section 8.2.2, we do need to discriminate between God as a party, witness or guarantor to the covenant as each of these has quite different consequences for how we view Christian marriage. (also p156ff)

His view of Matrimony as a sacrament is firmly rooted in the paradigm school “*The Bible presents marriage as the primary metaphor for the union of God and his people*” (p54) and goes on to display the elision from metaphor to paradigm (eg p86, p187) which I earlier attempted to deconstruct.

Although Hahn sets up a close equivalence between oath/sacrament and covenant, he says of the former that there is a fixed number (7) whilst of the latter there is an indefinite number and they may change in nature - classically the move from the Old to the New Covenant is a primary example. He also talks (p63) of on-going covenants to renew a relationship – we will return to this later when I develop the concept of covenanted enduring relationships. On the other hand, he seems to give *grace* a limited consideration in the context of sacrament – it only makes a very brief appearance (p141).

Although the view has been long established that marriage as a sacrament differs from the others in that the role of the church is as a witness rather than as the medium/channel, he asserts that marriage other than witnessed by the Catholic church is not valid (p55). This seems to exclude him from speaking to the very large number of people who consider themselves (and others consider them) to be married by other means. He dismisses entirely the administration of sacraments by anyone other than Catholic priests (p137). His use of scripture as an authority appears inconsistent: in relation to oaths he is prepared to re-interpret scripture, even statements ascribed to Jesus, yet in other matters (especially one-man-one-woman) he takes a much more literal line.

His consequential approach to contraception leads to, “*the total gift of self rules out the possibility of divorce, adultery, pre-marital sex - and contraception*” (p160). He relates his own experience in which he used child bearing as a means of repairing a marriage in difficulties (p170) which is defended on the basis of his (new) conclusion about contraception and the role of child bearing within a Catholic faith. However, this process is one which, in others, may lead to serious harm and, in any case, treats the yet-to-be-conceived as a means to an end rather than something in its own right (cf saviour sibling). Too often this process fails and is a high risk towards relationship

breakdown and consequent risk of lasting damage to the child born as the result of a failure.

Hahn's theology allows no other means for God to act other than through the sacraments, "*everything we need, we receive in the sacraments*" (p179) - in the context of incarnational theology which I have set out earlier, we must surely allow God to act as he chooses, whether through the church or not. Hahn's approach is to institutionalise God, a route that ultimately sets some people on a road to exclusion from God. Whilst not asserting that the church is other than pre-eminent in the relationship between God and humanity, it seems an important antidote to institutional excess that it is not considered exclusive.

Whilst his use of the Real Presence (Chapter 14) is not one that would appeal to those not already convinced of his Catholic agenda, there may be some relevance in his assertion, "*He is present in the covenant bond of marriage . . . it is His presence that makes the covenant binding*" (p185). Whilst we might not interpret this as implying that marriage is indissoluble (in the sense of divorce although see my development of enduring relationships which recognise that marriage has a lasting effect beyond the boundaries set by divorce hence the move from contract to covenant), we could see it as referring to the role of God as a *party* to the covenant.

At this point we can see that a traditional use of marriage as a sacrament *can* lead us to conclusions which we are either unhappy about or which seem at variance with the evidence which we are considering. In the context of our Evidential methodology, this should lead us to track back along the argument – not throwing out the concept in the light of such consequences – but determine whether we can reconstruct the use of sacrament in a way which better fits with the evidence.

By contrast, the tradition which follows from Luther's attack on "*the traditional Roman Catholic theology and canon law of marriage with unbridled vehemence*" (Witte, 1007, p47) rejects the sacramental nature of marriage, as much as a result of the perceived corruption of the church's role in regulating the status conferred by the marriage ceremony as for fundamental theological considerations. At the time, Luther's view of marriage was of a higher ideal than he saw extant in many contemporary relationships condoned by the Catholic church authorities.

As in many things, the Church of England, in the Thirty Nine Articles, adopted a compromise in which Matrimony is relegated from being a 'Sacrament of the Gospel' in a manner which stopped short of explicitly denying the sacramental nature of marriage. The Book of Common Prayer uses the title *Solemnization of Matrimony* and establishes that the role of the church is to be a witness, along with the gathered congregation, to the new status of the married persons. Unlike the Catholic church which normally conducted marriages in the context of a Mass (thus underlining the sacramental and ecclesiological roles) the BCP more loosely requires, "*It is convenient that the new-married persons should receive the holy Communion at the time of their Marriage, or at the first opportunity after their Marriage*". Current Protestant practice³⁷ more frequently does not include Communion in the ceremony.

The Alternative Service Book incorporated a sacramental-like expression, "*The Scriptures teach us that marriage is a gift of God in creation and a means of his grace*" although it also makes explicit the Paradigm, "*they [husband and wife] shall be united in love as Christ is united with his Church*". Currently, the Common Worship liturgy is less specific and refers to the couple receiving God's blessing although it claims to innovate when it provides a role for the congregation of witnesses, "*Your support does not end today: the couple will value continued encouragement in the days and years ahead of them*".

What it Means to be an Anglican echoes the Thirty Nine Articles, in expressing it, "*Other important rites, commonly called sacraments, include . . . marriage*" (CofE, 2010).

Sacraments are generally considered to be particular means by which the Holy Spirit transforms those on whom they are conferred. The involvement of the church in the conduct of a sacrament is not directly part of that process, but rather a signal means of regulating their use to avoid them falling into disrepute.

In this way, across this spectrum of interpretation, it is common ground that marriage – as an event – is a means of involving God in the good nature of the relationship – an on-going process. We may put emphasis on the initial event or we may wish to see God at work continuously. However, our incarnational view is at odds if it is further asserted that these particular forms are the only way in which God may be encountered or that God may be effective – this is closely-related to the way in which

we have seen that *Marriage as a Paradigm* runs into problems and, ultimately, does the church a disservice.

The role of the church in mediating – or even controlling – access to sacramental marriage has potentially extended responsibilities in the case of learning disability. As we have examined carefully earlier, society is often uncomfortable at the idea of allowing, even encouraging, people with a learning disability to have children, on the basis of a presumed over-riding interest in the needs of the child over those of the parent. The law already allows the state to intervene under particular circumstances if a child is believed to be in danger from either active or passive shortcomings of its parents. At the same time, there is a widely presumed right to marry.

If we accept that the church has a duty to ensure that people are properly prepared for marriage and may seek to deter those which it feels wish to undergo the ceremony in a way which is not true to its understanding of marriage³⁸, then there may also be a duty to intervene in the case of people with a learning disability, on the grounds that they should not be allowed to procreate. This is dangerous territory, not least because the definition of learning disability is, in general, relative not absolute and inclusion in the category is open to abuse. Furthermore, it opens the way to suggesting that all prospective parents – those seeking to be married – should undergo some form of test to determine their fitness for parenthood. That itself is problematic as there is no universally accepted specification for good parenting, which may only be judged on outcomes rather than process. Since this is, perhaps self-evidently, a direction we would not want to take, it is necessary to explore what needs to change to avoid such a conclusion.

We consider elsewhere in this thesis the role of procreation in the definition of marriage, but in this context we should re-examine how far the concept of 'Marriage as a Sacrament' needs to evolve. The consideration of 'Marriage as a Paradigm' focused on the need to move away from the prescriptive elements that it encouraged – 'marriage has to look like this *because* this is how we see God's relationship with mankind'. If the sacramental nature of marriage is bound tightly to the role of the church, rather than the role of God, then we again see the emergence of the same problems that gave rise to Luther's condemnation. The gospel message is inherently inclusive and a challenge to institutions that seek to turn it into one of exclusion.

The traditional perception that marriage is a sacrament conferred by the couple leads us more positively towards an inclusive agenda and puts on the church, not so much a duty to *regulate*, as a responsibility to *enable*. In the case of learning disability, the task then is not to exclude such people from a marriage blessed by God through the church but instead to seek ways in which it can better promote positive outcomes. Of course, this highlights a much more demanding task as the support may have to be lifelong and, in various senses, expensive. It leads us away from apparent 'bless and forget' approach which too frequently seems to be the case as the church acquiesces in demands to be used for essentially secular, often selfish, interests. Instead, the church needs to reclaim its ground as having a never-ceasing role in supporting enduring relationships but this time as servant rather than master.

In this way it is possible to see positively a sacramental nature to Christian marriage, one in which God acts to support and encourage, one in which the couple make solemn undertakings one with the other in the sight of God, rather than the constricting role in which the sacrament is, in some sense, owned and controlled by the church. Marriage as a sacrament then becomes an open-ended process, one in which the church – let alone God – can make a positive contribution or the better good of both society and individuals.

For the church this may be a liberating experience but it is also, in traditional terms, a dangerous one as it requires letting go of the controlling mechanisms which it has enjoyed in the past (but which secular society now widely disregards) and abandoning its right to define the details of what marriage is. In so doing it may discover that relationships which it previously condoned under the protection of the marriage label have to be considered as not in a positive relationship with God (note the determination to avoid the use of the notion of 'condemn') and that there are those which it previously excluded but which must now be seen incarnationally as a locus for God's positive interaction with humanity. This will necessarily invoke a reappraisal of what distinguishes Christian marriage from secular marriage.

Coupled with a willingness to let go of the role of acting as the state's agent in regulating and registering marriage, this road can lead to reclaiming the sacramental nature of marriage which secularisation has increasingly over-looked.

7.4 The Evolution of The Purpose Of Marriage

Three distinct purposes of marriage have, at times, have varied in their relative significance, depending on cultural contexts:

- Procreation and child-rearing
- Delimitation and control of sexual activity
- Companionship

As the Book of Common Prayer says “*First. It was ordained for the procreation of children ... Secondly. It was ordained for a remedy against sin ... Thirdly. It was ordained for the mutual society, help and comfort ...*”.

In 1979, a Commission of ECUSA in a report on sexuality stated, “*The purposes of human sexuality are to contribute to human welfare, pleasure, family procreation, social order and a more abundant quality of life for all*” (ECUSA, 2005, pp76-77). Of course there is a huge leap from this statement about sexuality to a parallel statement regarding marriage, but it is one widely made.

The balance between these three purposes has never been constant for very long, varying even within the same contemporary society. That it has changed so much in the past leaves us with no reason to suppose that it will not change yet again.

Jeffrey (2006) reviews how the Catholic church has reached its present position, underlining the use of covenant alongside, if not instead of, contract in the watershed thinking of Vatican II. He is disappointed that this use has been undermined subsequently.

The over-riding benefit from defining marriage in contractual terms is that this is an enduring and, for the most part, provable construct. Indeed, that is largely why the Hardwicke Act came about, to avoid the problems with clandestine marriages. Making conjugal love as the basis for marriage is much less permanent and opens up the possibility of arguing that if such love in a relationship ceases, then the marriage also no longer exists (Jeffrey, 2006, p51).

Jeffrey consistently argues that the repeated return by the Catholic church, notably in the 20C, to a legalistic framework is simplistic and only achieves a consensus at the

price of relevance. Pastoral work based solely on a legal (contractual) view of marriage is doomed to fail in connecting with the lives of most people in contemporary society. It actually feels as if it speaks more about maintaining marriages where the relationship itself has withered, than about our perception of God and how God relates to humanity.

Because society has itself evolved a view of marriage that is almost entirely based on a legalistic framework (including its interaction with divorce) a theology based on a legal contract is unable to make much contribution. A theology of marriage must speak to the issues where the secular framework most fails.

Stackhouse contrasts a concept of marriage that is defined (and controlled) by the state, with one which is ordained (both defined and controlled) by God (2005, p167). He identifies contemporary experience as one in which relationships exist only so long as and insofar as they meet the needs of both partners as individuals. The recognition of rights of an individual has evolved into a post-modern expectation that the rights of the individual seem to be wholly determining and to which the rights of the state or society or others such as children are subservient. Hence, marriage is the place in which individuals find recreation (2005, p170). A discovery that a marriage no longer provides such recreation is sufficient justification for concluding that the marriage no longer exists.

With the help of Coleman (2004), we can see how changes in the balance of the purposes claimed for marriage have occurred. Almost none of the aspects of marriage which, at some point in time have been seen as intrinsic, have been a constant.

The issue of procreation and its purposive relationship with marriage has clearly changed over time:

- A (the) purpose of marriage is procreation
- A (the) purpose of sex is procreation
- Marriage gives purpose to procreation

In parallel with the changes in the understanding of marriage, there have been changes in the practice and perception of sexuality and sexual behaviour. Mottier (2008) traces the historical progression similarly to Coleman. She particularly identifies the

underlying purposes for which sexual behaviour has been believed to exist and traces the way in which authorities have sought to control and regulate sexual activities in pursuit of such varying objectives. In some cases the authorities have been purely secular (as far back as ancient Greek society) whilst in others religious institutions, pre-eminently the Christian church, have established the norms. In the context of Evidential Theology, we are able to observe that enduring relationships exist, even thrive, in many different ways from those which form the classic God paradigm. This forces us to re-evaluate whether that paradigm is tenable in the face of such evidence.

As a prelude to establishing a parallel between marriage and the blessing of same-sex relationships, the ECUSA report says, “*a covenant to form a household together as part of the Christian community of faith in its life of mutual love in service of the world*” (ECUSA, 2005, Section 2.28). This recalls the Old Testament culture in which the isolated, cellular concept of family with 2.4 children has yet to see the light of day. The extended family, which went beyond the immediate blood relations out to the whole tribe, was the context in which marriage took place. Many of the prescriptions made at that time regarding marriage relate to this wider context and placed greater emphasis on its relationship and function within the whole community than on the narrow confines of the couple themselves (Coleman, 2004, pp 38-41).

Conclusion

In this chapter, we have found difficulties in the ways in which marriage has been used as contract and covenant, which have become interchangeable in a manner that no longer is helpful. In addition, marriage, as a contract is principally about exit conditions but the serious flaws in this approach can be addressed through a distinctive covenant basis. We have also discovered problems with some of the rights language used in connection with marriage, and child-bearing in particular. We cannot sustain the view that child-bearing is a pre-requisite as to do so leads to impossible situations with the advent of modern fertility treatments. Without a new interpretation, fertility treatment would become an imperative, not an option. Furthermore, we have recognised that marriage, far from being a fixed construct, has evolved extensively and that theological arguments have been driven by changes in the social context. We

cannot unequivocally translate scriptural assertions about marriage from one generation to another without some recognition of the impact of such changes.

In particular, we have found special difficulties with the use of marriage as a paradigm and have argued for a major shift in this aspect of marriage theology.

- 1 Later legislation (Parliament, 1836) provided likewise for other denominations and faiths. Jews and Quakers were given special provision in 1753.
- 2 A major purpose of the Hardwicke Act was to regulate property rights which attached to marriage and to eliminate the problems which arose increasingly frequently from the clandestine and unregistered marriages which largely prevailed before that time.
- 3 Registration details of civil marriages are currently principally governed by changes introduced in the Immigration and Asylum Act 1999 (Parliament, 1999). The civil ceremony is only required to contain a Declaration by both parties - the so-called Contracting Words – such as: I, N, take thee/you, M, to be my wedded wife/husband.
- 4 Although a promise or vow is not a requirement in a civil marriage ceremony, it is permissible to include them, with words which may either be taken from a standard range of texts provided by the particular registrar or written by the couple themselves, provided that no religious content can be discerned in the text.
- 5 A web site offering advice on weddings (WeddingGuideUK, 24 June 2005) addressed the situation of marriages where there are children (of either or both partner): *“If there are children involved in your relationship then it is a wonderful touch to include them in your wedding vows ... Registrar/Celebrant: Today Jonathan, Claire and their children have made a new family, and together they promise to consider each other, to be loving, respectful and devoted to each other. We ask those present to help us. Will you promise this?”*
- 6 Whenever discussing the view of marriage it is always important to distinguish between the ceremony and the enduring relationship.
- 7 The cost of rearing children has also increased significantly. (£194,000 in 2009 up from £140,000 in 2003 – Liverpool Victoria 2009) In addition, the cost of housing means that many do not feel able to start a family until much later in their life whilst clinging to a lifestyle that puts an emphasis on the self rather than others.
- 8 Most children survive until adulthood (99% survive at least to their first birthday - ONS 2004)
- 9 The typical age of first marriage has risen to 31 in 2007 from 26 in 1961(ONS2005a)
- 10 Current life expectancy across the world is now 67 but for Africa as a whole is 53. (United Nations, 2006 p14ff) However, some countries have much lower life expectancy, falling to below 40 in Zambia and Lesotho. (CIA 2008)
- 11 Changes in contraceptive practice did occur earlier than is sometimes assumed to be the case. Mason (1994) records that the mass production of condoms began in the middle of the 19C and that soon the cost fell from 10d each to 1/2d at which point conscious control

over family size became an option. Mason also refers to a survey of working class couples in the early 20C which indicated that cost was not a major deterrent to their use.

- 12 Hence the phenomenon of private detectives who would follow suspected couples and who might only produce testimony that the couple were seen entering or leaving a hotel, not necessarily together, for a court to allow divorce on the grounds of adultery. Now, it may well have been that in many instances there was a willingness to be complicit in a divorce that simply recognised an already-defunct marriage, but a photograph of a couple in bed was as good as proving that they had had sexual intercourse. Why else were they there?
- 13 The masculine perspective here is deliberate.
- 14 Whitehorn's reference to water, links with a comment made by Hauerwas (1977b): *"It has been remarked that if fish ever developed intelligence and began to codify and describe their environment, one of the last things they would notice would be the water"* (p38)
- 15 Wilson reports (p193) work by Collee in North America, that thirty-somethings have an average of only three close friends, yet have around fifty casual friendships, each typically lasting seven years.
- 16 Other cultures still adhere to procedures in which brides are chosen for the husband by their families whilst others choose the bridegroom for the wife – perhaps 60% of all marriages world-wide (Mackay 2000, 2001).
- 17 Article 12 of the Human Rights Convention, RIGHT TO MARRY, states *"Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right"*. Of course this raises two key questions: firstly, what is meant by marriageable age and secondly what are the national laws that govern marriage and how far are they consistent with current theology?
- 18 In the United Kingdom not only must the monarch approve certain marriages but also the government of the day must be consulted, to avoid cases which will not commend popular support. Failure to obtain that consent led to the abdication of Edward VIII.
- 19 Despite some flouting of the new law, it quickly became effective in putting the marriage shops and prison chapels, such that at Fleet, out of business. (Outhwaite 1995, p126)
- 20 It is interesting to note that the Human Rights Declaration does not establish a right to sexual behaviour or even to form cohabitations or similar relationships not formally recognised as marriage. Article 12 is more redolent of an age when marriage did not necessarily bring much of the modern meaning of the term but was seen as a legal arrangement affecting inheritance and property.

- 21 The judgement of the European Court of Human Rights in the Goodwin case (European Court of Human Rights, 2002) *“the inability of any couple to conceive or parent a child cannot be regarded as per se removing their right to enjoy the first limb of this provision.”* (para 98)
- 22 This was subsequently reinforced in the UN Convention of the Rights of Persons with Disabilities
- 23 Whilst passive abstention was allowed and active attempts to conceive were commended to married couples, active abstention was forbidden.
- 24 An example of how this plays out in a closely-related subject is found in Warnock (2002)
- 25 For example, if one is a witness to a violent assault it is not a duty to intervene if it is likely that in so doing one will be killed or seriously injured, but it may be good to do so if one believes that God so expects. On the other hand, if the situation is such that the worst outcome is embarrassment, then there is a duty to ‘forbid wrong’.
- 26 No social worker wants to be in the position of placing a child with an abusive parent, especially if the likelihood of abuse can be determined in advance.
- 27 A procedure by which embryos are selected on the basis of creating a sibling for an existing child whose genetic defects could be alleviated by transplants or similar treatments provided that the right genetic material is available
- 28 Picoult examines these issues in her novel *My Sister's Keeper* (2004) in which a girl sues her parents for medical emancipation having been conceived as a saviour sibling, resulting in on-going procedures to save her older sister.
- 29 Interestingly, the Civil Partnership legislation does not allow the lack of sexual activity as the basis for a partnership to be declared void (Parliament, 2004) although the Matrimonial Causes Act 1973 included provision for declaring a marriage void on the basis of non-consummation. (Parliament, 1973)
- 30 In Italy, where the secular law is more closely aligned to Catholic teaching, Perrgiorgio Welby won the right to have his respirator turned off, even though he was aware that without it he would quickly die. The Catholic church refused him a religious funeral (BBC, 2006)
- 31 The Appeal Court consideration of the availability of Herceptin (an expensive breast cancer treatment drug) made it clear that it is legitimate for the NHS to take into account cost when deciding what treatments it will provide as a matter of policy. (EWCA, 2006) The use of Avastin for WetAMD is being considered on the grounds of cost despite a lower level of confidence than for more expensive alternatives (Guardian 2010b)

- 32 Polkinghorne (2000) made the comparison between science and engineering: “scientists give first place to science's power to understand the world, even over technology's power to change it.” (p5)
- 33 This is not to imply that reproduction is a necessary component of marriage.
- 34 See for example Thatcher & Stuart (1996) for several historical reviews.
- 35 A complete analysis of the sacramental nature of marriage is outwith the scope of this thesis. To see how sacramental marriage has evolved into contractual marriage, see Witte(1997).
- 36 It is interesting to note, in the light of modern considerations of divorce, that the Council of Florence also said that, *“The other four do not imprint a character upon the soul, and admit of repetition.”*
- 37 The Established Church role of the Church of England further encourages this trend.
- 38 See for example the very strongly presented case by the Vatican for requiring non-trivial marriage preparation.

8 Marriage as a Relationship

In our selected case studies, we have found that traditional theological thinking about marriage has several elements which appear unsustainable. In particular, the contractual and childbearing aspects are flawed and there is considerable difficulty in considering Christian marriage to be contractual in nature. However, historical reviews give licence to a search for new expressions and in this chapter we will focus on a covenant approach that recognises evidence from observation about contemporary society. This will lead to what is to be called a post-modern marriage covenant in which allowance is made for a much wider variety of circumstance than was historically accepted. Nevertheless, any attempt to create a single theology of marriage, in which all of the marginal cases with which we began are accommodated without difficulty seems elusive.

We have already noted the sequence analysed by Witte (1997):

- Sacrament
- Social Estate
- Covenant
- Commonwealth
- Contract

and seen that a large portion of society rejects formal marriage, replacing it with informal arrangements of greater fluidity. At the same time, there has been a growth in the way in which society has responded to demands for protection against the more excessive consequences of this fluidity. In particular, there are now degrees of formal protection over the division of assets (including children as well as property) in the event that an informal relationship comes to an end.

Each stage in Witte's theological sequence evolved in response to social change, just as the parallel legal precepts evolved under pressure. The challenge therefore is to continue this process, being as responsive to change as previous generations, yet being faithful to an enduring sense of purpose as encapsulated in our experience of incarnation.

It is possible to see something of each of Witte's stages in how present society operates with respect to marriage. To a large extent, the start point for many people is that of companionship, set in a sexual context. That can lead into a feeling of a shared existence (Commonwealth) in which not just tangible possessions are shared, but that life together is more than two parallel lives. Married life is something in addition to two individuals.

However, knowledge of the adverse consequence of fluid relationships leads to ever greater contractual considerations. A growing proportion of people enter into a relationship with the expectation that it will, at some time, probably come to an end. Pre-nuptial agreements¹ are clear evidence of this. Until recently, such agreements under UK jurisdiction had little significance in the event of a divorce settlement and courts would generally disregard them. However, this is gradually changing.²

A classic dilemma in post-modern Western society is to want both freedom from state intervention at the same time as protection by the state when that freedom fails to deliver on its expectations.

The continued demand for religious marriage ceremonies, whether Christian or other, suggests that there remains a sense in which the relationship which, as we have noted, is an entity separate from, and in addition to, both individual lives, may have a quality which is more than a convenient, but temporary, domestic arrangement supporting both sexual and child-rearing needs.

But it is the enduring sense of covenant that we shall use as the basis of resolving the problems that our three critical areas throw up, whilst remaining within a Christian theological tradition. Yet, the kind of covenant marriage which belongs to Witte's third stage long since lost its ability to support contemporary social expectations and needs. We will need to find something new if this is to be the way forward: a post-modern covenant.

In restoring a more fundamental recognition of the covenant aspects of marriage (accepting that most people know what love means even whilst being unable to define it) the challenge for the church, if not society widely, is that this implies a relaxation of the grip of contract. In particular, it will be necessary to work with definitions (not

least of what we mean by marriage) which are at best fuzzy around the edges and, more likely, designed to be comprehensive rather than specific, inclusive rather than exclusive. It necessarily breaks the relationship between the church and state in the matter of regulating marriage.

The establishment of a legal definition for *civil partnerships* has already extended the state-defined rights of heterosexual couples to same-sex couples. It seems likely that further extensions will afford similar rights to cohabiting couples of whatever gender – even non-sexual ones such as siblings. It is possible that the consequence of these developments will be to recognise that we are dealing with two quite separate activities: a *partnership contract* which is defined in contractual terms which is (like all contracts) inherently suspicious and a *relationship covenant* which is defined in terms that depend on a mutual trust. Whether or not these two can be incorporated into a single ceremony is as much a social as a theological debate, but seems better avoided.

However, this is far from the American trend to define *Covenant Marriage* as something that extends a legal contract (in ways which are highly prescriptive of the nature of the relationship). I shall argue for drawing the contract and the covenant apart, allowing them to evolve to fit their own specific needs, recognising that they are fundamentally different, even contradictory.

As a result, the attempt that the church has sustained for the past millennium to control both the covenant *and* the contractual aspects of marriage may finally be coming to the end of its useful life. The church should focus on a theology of a post-modern marriage covenant whilst the state attends to the contractual aspects. The two need only relate where they touch – which in many aspects may be quite slight. To a degree, the church's role in defining a purpose for marriage can seek to ensure that it functions better in respect of its goods whilst the state ensures that the adverse consequences of fluidity are mitigated and managed. We can even envisage the possibility of the church recognising covenanted relationships that the state has not (yet) registered.

8.1 Covenant As A Relationship

The use of the term *covenant* in association with marriage is widespread. However, as Stackhouse (2005, p158) indicates, the meaning has not been constant. He extracts from the spectrum a central core which, he claims, is current in all, “*In all cases, the covenantal form is understood to be a free, voluntary agreement that accords with a pre-given order and a divine set of purposes that correspond not only to the basic patterns of creation but to rightly ordered human desires*” (2005, p163). The problem, however, is that there has been, and remains, a wide disagreement about what is ‘pre-given’, what is natural and what should be ‘rightly ordered’ about human relationships. He goes on (2005, p172) to cite Sacks who asserted that there remain only two ways of thinking of human association, namely *contract* and *covenant*. In this case the over-riding distinction is between inherent suspicion and trust.

The complex network of meanings which the term *covenant* has attracted complicates thinking about marriage as a theological construct, both within the church and without. A covenant in the theological context is, typically, an agreement between God and humanity in which God offers guarantees in return for a specified response. In the context of marriage, this implies that the benefits of a marriage (whether or not defined in socio-economic terms or as a theological value) can only be obtained if the partners live according to some pre-ordained pattern. Such a statement critically depends on the human participants being able to ascertain exactly what are the requirements they have to meet, often implemented in a very private and intimate context. Since there are limited recipes in scripture, classically the church has claimed to be the means by which those requirements can be understood. However, this argument has been progressively eroded and even the strongest expressions are routinely ignored – or at least disobeyed – in the privacy of the marriage.³ It is becoming increasingly self-evident that for marriage to be seen as a paradigm or for the church to have a role to play in influencing behaviour within sexually-based relationships, a radical re-appraisal of the covenant nature of marriage is needed.

The Episcopal Church of the diocese of Los Angeles states:

In the case of the sacramental blessing of life-long covenants, two people who have developed a committed relationship with one another come before God and the community of faith. They publicly vow and express their intention to live together in a lifelong covenantal relationship. This relationship is covenantal insofar as the two persons make promises to one another that they will support and nurture one another without condition (2008, p3).

The significant factor here, which clearly distinguishes a covenantal relationship from one of contract is *without condition* and so is not the same as a contract where, as we have seen, the essence is that something is undertaken on condition that their other party fulfils their part of the bargain. The above definition makes it clear that failure on the part of one person does not, of itself, justify an automatic break in the relationship. What is not helpful to this present investigation is the introduction of the US term *Covenant Marriage*, largely in certain US states. In 1997, Louisiana passed new legislation permitting, and giving state backing, to an alternative form of marriage which has been called Covenant Marriage.

In reality, Covenant Marriage (See Witte & Ellison, 2005) is little more than a strengthening of the exit criteria (that is, conditions for divorce) in a context where the alternative civil marriage permits no-fault divorce, almost divorce at will. Apart from the provision of pre-marital counselling in order to ensure that a couple understand what they are undertaking, the concept is essentially still contractual, albeit with different terms. It speaks little about the enduring relationship within marriage.

al-Hibri says of the Louisiana law:

So, while Islamic law limits judicial divorce (as opposed to divorce at will) to cases very similar to those of the Louisiana statute, it is not generally willing to tighten the bond of marriage to the extent that would create unhappiness and oppression for a long period of time. ... The final decision as to whether a person observed his or her covenant faithfully remains a matter between that person and God ... To agree a law that imposes, except under certain circumstances, greater waiting hardship on an alienated couple is to expose Muslim men and women to unnecessary temptation and loneliness that may indeed affect their chastity" (2005, p 216).

Indeed, even the advocates of Covenant Marriage accept that there is little difference between it and the historical view taken by the Catholic church. Religious Tolerance states on its web site, "*History of covenant marriage: The Roman Catholic Church has had a form of very restrictive CM in place for centuries. It is the only option that they offer*" (Religious Tolerance, 2006).

Hay (2005) highlights the very considerable differences in marriage and divorce law that exist, not only between the US and most European countries, but even between the legislation of different US States. It therefore follows that a *theological*

consideration of marriage which seeks to have a universal validity, will either have to be very complex in order to accommodate these legal differences or, more usefully, have to begin to differentiate itself from the narrow contractual basis of marriage. Indeed, it may prove more effective to develop a clear gap between the two systems. State laws are about contracts, rights and the conditions surrounding termination of the contract (i.e. divorce) whilst the theology of marriage is about what happens in formation (e.g. pre-marital counselling) and within-marriage effects, aimed largely at preserving marriages and making them effective with willing partners for as long as possible and to the benefit of any children reared in that framework. It may also prove simpler to address, in the context, issues with relationships which are other than first time marriage between couples of a different sex. The principles will relate more to the *relationship* rather than the civil benefits deriving from of the status of the couple. On the other hand, for some it may be more difficult insofar as a particular theology may import wider considerations than the civil concept can allow, such as procreation and permanence. However, by making the civil law and the theology almost orthogonal matters, it is possible to allow developments in one dimension independently of the other. Furthermore, it is possible that more than one theological concept can cohabit within a single civil legal system and vice versa.

8.2 Marriage as a Covenant

Particular attention should be given to developing the notion of *covenant* as a concept that could not only change the way in which marriage vows are viewed (as tentatively introduced by Thatcher, 2007, p134) but may also provide a basis for improving the way in which the church affirms the parent-child relationship.

The term *covenant* is used in various forms of the marriage service. For example, the introduction to the Common Worship form says, “*It is based upon a solemn, public and life-long covenant between a man and a woman, declared and celebrated in the presence of God and before witnesses*” but it is unclear from the context what specifically is meant by covenant. In fact, the critical part of the ceremony is defined as making *vows*:

I, N, take you, N, to be my wife, to have and to hold from this day forward; for better, for worse, for richer, for poorer, in sickness and in health, to love and to cherish, till death us do part; according to God’s holy law. In the presence of God I make this vow.

In this particular service form, the vows are entirely symmetrical.

The Book of Common Prayer has some differences between the words used by the man and those by the woman. In the case of the man, he says, “*and thereto I plight thee my troth*” whilst the woman, in addition to the word of 'obey' inserted after 'love and cherish' uses the phrase 'thereto I give thee my troth'. The earlier Old Sarum Rite had, instead of 'obey' the much earthier, “*to be bonnair and buxom, in bed and boord*” and both used the 'plight' form.

The word 'plight' indicates a pledge whilst 'troth', meaning faithfulness, has the same origins as 'truth' - 'betrothed' is a solemn promise to marry (in the future). The distinction between 'plight' (man) and 'give' (woman) is further emphasised in the subsequent words of the minister, “*and thereto have given and pledged their troth either to other*”. Since the origins of 'plight' indicate a legal commitment, this difference seems to suggest an inability of the woman to make the same kind of undertaking, albeit that in this context the effect is meant to be similar.

In the current position statement of the Church of England (HOB, 1999) the use of either contract or covenant is avoided and the term 'pledge' is used instead. Wesley (Coe 1996) preferred to use 'faith' instead of 'troth'.

The asymmetry in the Book of Common Prayer is continued when the man alone makes a promise in giving a ring to the woman. The 1922 Prayer Book dispensed with the difference in vows between the man and the woman whilst retaining it in regard to the ring.

However, it is important to note that the Common Worship vows are restricted to the relationship between the two people being married and makes no reference to other parties. The introduction refers to child rearing in terms which are ambiguous; it is far from obvious whether the words are meant to indicate that child rearing is a necessary and essential part or whether this is an optional part:

Marriage is intended by God to be a creative relationship, as his blessing enables husband and wife to love and support each other in good times and in bad, and to share in the care and upbringing of children.

Whilst the use of the word 'creative' in the first phrase could be interpreted more widely, it is likely than most people would take it to intend to refer to creating children. Further, the purpose of 'love and support to each other' is stated on the same

basis as '*sharing in the care and upbringing of children*'. If the second is meant to be optional, then so may be the first purpose. It is hardly likely that this is intended.

Whilst the term *covenant* is used, there is little evidence to indicate how the *vows* are intended to be different from a *contract*. It is therefore important to understand what the difference might be, especially as when it comes to ending a marriage with the legalities of a divorce: it is much more like a process of adjudication when a contract is broken. The failure of one party to a covenant to meet their intentions expressed at the outset does not invalidate that covenant.

8.2.1 *The Legal Concept*

A *contract* is a two way process. The essence of a contract, in legal terms, is the consideration – what one party will ‘pay’ in return for what the other party undertakes to provide or to do. Without a consideration, no valid contract exists.

The ability to enter into a legal contract is still considered important, even if accepted uneasily in *Opening the Doors* (General Synod, 2009) as something that state-sponsored protection of vulnerable adults indicates.

Distinctively, a *covenant* is a commitment to do something for another without there necessarily being anything in return. The action is to be done for its own sake, not for what it yields.

Websters Dictionary gives a definition, “A *mutual agreement of two or more persons or parties, or one of the stipulations in such an agreement*” and cites 1 Sam 18 v 3 “*Then Jonathan made a covenant with David, because he loved him as his own soul*”. It also indicates that a covenant may two-sided as in Genesis 17: “*and God said to him, ‘As for me, this is my covenant with you: ... God said to Abraham, ‘As for you, you shall keep my covenant’*”.

In a legal context:

Under the common law a covenant was distinguished from an ordinary contract by the presence of a seal. Because the presence of a seal indicated an unusual solemnity in the promises made in a covenant, the common law would enforce a covenant even in the absence of consideration (AskDefine, 2010, Define Covenant).

8.2.2 The Biblical Concept

The term *covenant* occurs frequently in the Bible, right from earliest times. It is often used to describe the relationship between God and humanity. It is not our task here to develop a detailed analysis of such a covenant theology, other than to understand how it has informed and affected the development of marriage theology.

For example, in *Lumen Gentium*, Pope Paul VI (1964) refers to the *unbreakable covenant* (§6) as the relationship between Christ and humankind. This is either tautological (that is, all covenants are unbreakable) or it is deliberately singling out this particular covenant from amongst the generality of covenants which may or may not be breakable. An agreement or gift, merely by being a covenant, is not necessarily unbreakable.

Also, in §9, “God *therefore chose the race of Israel as a people unto Himself. With it he set up a covenant*”. Here we see a clear indication of the unidirectional nature of this covenant. That is, God established the covenant, regardless of the response from humanity, either individually or collectively.

The same paragraph goes on to say, “*I will make a new covenant with the House of Israel*” – it is not suggested that *we* (God and humankind) together made the covenant.

It is also interesting to note that the *old* covenant was replaced unilaterally by, “*Christ instituted this new covenant*” (§9). Clearly there are some circumstances under which it is possible to repudiate one covenant and to replace it with another. Whether this implies that a covenant can be repudiated altogether and not replaced by one which offers at least as good terms as its predecessor, is uncertain.

What is important, however, is that the term *covenant* has become used in many different ways, usually to underpin a specific and sectional theology. The rise of Christian Zionism, especially in the United States, has led to many different claims being staked in this territory. In most, but not all, biblical cases, one party to a solemn oath – a covenant – is God. The other party is generally either a nation (the Jewish people in one sense or another) or with an individual as representative of a tribal or national group (for example the Abrahamic Covenant).

If the marriage covenant is modelled on a presumed covenant between God and humankind (sometimes expressed as between Christ and the church – a parallel but significantly different relationship) then we have a problem. Such a relationship is clearly asymmetric: God and humanity are not equal partners in the covenant.⁴ The pressure in this post-modern age is to ensure that our perception of marriage is symmetric, that there is an parity of status, purpose and commitment between the partners to the covenant.

All of this accumulation of covenant-based theology generates increasing difficulties in determining how to assess *covenant* as the basis of marriage. If the use of covenant is to introduce a theological dimension then it is necessary to determine whether God is considered to be a party to the covenant or is a witness or guarantor of it.

If God is a *witness* then the role is broadly passive – only being needed if there is a question about the validity of the undertaking. If the couple mutually decide to terminate their agreement then there is little for God to do unless others are involved, such as children. In any event, a witness is not an effective role in the on-going relationship. A witness merely testifies to the original undertaking and is not necessarily equipped to arbitrate its application later on.

If God is a *guarantor*, then there is an implication that God will intervene to ensure that the marriage meets its objectives – as set out in the covenant agreement – and that both parties, jointly and severally, as well as the society or community in which they live, can rely on God to maintain the institution. In this case, there is a clear implication that by entering into the agreement in the first place, the parties (which includes the broader society) specifically want each and every marriage to persist indefinitely. A failure to do so is a failure of the guarantor, as well as that of the covenant being guaranteed.

However, if God is a *party* to the covenant then it is necessary to determine what it is that God is promising to provide – presumably to the couple, if not to society. Obviously there have been those who have expected, and still do so, that God will act to ensure the persistence of the relationship, similar to that of guarantor.

If we then link this approach to one which denies or severely restricts any exit procedures, there is an underlying arrogance, namely that we constrain what God can or is required to do to and for the married couple. The evidence we accumulated in earlier sections points us very much to a God that operates in many different ways in and through inter-personal relationships, of which marriage is one form.

8.2.3 *The Marriage Covenant*

We seem to have reached the point at which it seems that *covenant* rather than *contract* is a much better basis theologically, not only for marriage but also parent-child relationships – as well as other enduring relationships. Seeing marriage as two mutually supporting covenants maps more clearly onto the Pauline teachings, even if the nature of the covenants may have developed in the interim and will continue to do so into the future. The uni-directional nature of a covenant is a better understanding of the parental role which can be developed as a commitment to the child without expectation of reward. Of course, it is easier to undertake such a development now that child rearing is no longer such a significant part of providing for old age as it was in pre-pension societies. Indeed, our earlier evidence showed that parenting has become more of a *responsibility* than a *benefit*.

Jeffrey highlights, “*the debate that took place at Vatican II over marriage, where it was insisted that marriage is a covenant, and that the essence of marriage is found in conjugal love*” (2006, p xvii). However, this change of perspective may not have been all that it initially seemed (especially in the light of the fact that the Catholic church continues to hold to a legalistic framework, especially when it comes to annulment. Jeffrey continues:

Revolutionary though this concept was in defining the limits of the contractual concept of marriage, and overturning Duns Scotus' definition that the contract was about the exclusiveness of sexual relations between the partners, it was only a return to the Scriptures and the teaching of the Fathers of the Church that renewed the concept of Christian marriage (2006, p xvii).

It is perhaps less useful to our present considerations that he concludes, “*The concept of covenant necessarily brings out the personal dimension of marriage, yet describes the merging of the human with the divine*” (2006, p xvii). In this and elsewhere, Jeffrey seeks to sustain a circular argument: marriage is a paradigm for the relationship between humanity and God, so therefore our rules about marriage should imitate our understanding of God. Not only is this approach circular but also sits uneasily

alongside other arguments about sexuality still supported by the Catholic church which base themselves on a recourse to what is natural, rather than what can be manufactured in imitation of God's nature and our perception of that nature.

Taken more objectively, the idea of covenant can also help us to understand better the process of divorce if we see that as an agreed release from the covenant. The effects of the relationship breakdown on any children can be ameliorated by a re-affirmation of the individual parent-child covenants.

So much of what John (2000) says in *Permanent, Faithful, Stable* about same-sex relationships is a good model for a renewed vision of relationships generally (including heterosexual marriage, first time, procreative or otherwise)

In this way we might also use a theology of *enduring relationships* to speak about any context in which two or more people make vows one to the other. Not only can this say something about learning disability and post-menopausal marriages, but could also, for example, generate better insights into employer-employee, or carer-client relationships, both of which are somewhat in disarray, lacking a broad acceptance of their theological basis.

We need to be clear about what is meant by the marriage vow. If we assume that part of the vow is to sign up to the requirements of parenthood, we can either abstract a timeless and universal concept which can last as long as the lives of those making the vow, or we may have to admit that the parenting obligation changes over time and place. If so, we have to consider whether the couple signed up to the view of parenting at the time of making the vow and whether they are exempt from any subsequent change rather than necessarily committed to changes which they could not reasonably have foreseen at the time of marriage.

8.3 *Post-Modern Marriage Covenant*

In this section we shall seek to develop a concept of *Post-Modern Covenant*, responding to the contemporary social context.

The essence is that the state (acting on behalf of society) establishes rights in the form of a contract and the state becomes a party to that contract by undertaking to arbitrate in certain future situations. Individuals cannot freely define these rights, particularly when they intend to rely on the state to enforce these rights. More often than not it is ironic that such rights are only exercised when a marriage has come to an end (by death or by divorce) rather than having an impact on the relationship whilst it is still functional. They are largely a means of making explicit an exit strategy, saying very little about the nature of any on-going relationship. This observation serves to emphasise further that secular marriage is about status whilst, theologically marriage is about the nature of an on-going relationship.

Separately, a covenant can be established by various means, one of which is that which the church seeks to identify. Its essence is to identify 'best practice' in terms of ways in which marriages should operate and to establish *duties* (rather than *rights*) of one partner to the other (the undertakings given as part of the covenant). The tradition of the church is consistent with this since it has long seen marriage as an undertaking between the couple with God as the medium, acting as the guarantor of the *covenant* parallel to the role of the state in maintaining the *rights*.

Sitting outside a legal framework, covenants may take on various forms depending on the context of each relationship, with the church having a pastoral role in determining the boundaries of such flexibility. Where appropriate, these covenants can be extended to others such as pre-existing children or even responsibilities to elderly parents.

It is inherent in these concepts that anything which is contained within the covenant, rather than the contract, cannot be enforced by the state, whose role is largely restricted to the exit conditions. In the event of a disagreement on covenant matters, it is to the guarantor of that covenant that either or both of the partners must resort. In the case of Christian marriage, God is the guarantor and such resolution should be in ways which Christians understand and experience in maintaining their relationship with God.

It may, depending on circumstance, be that prayer (individual or joint) is the mechanism or it may be that recourse to the church (acting in a pastoral not legal role) is effective in mediation and resolution. Clearly, it will not be easy for the church to relinquish its historical attachment to a quasi-judicial role which gives judgemental effect to narrow perceptions of what the Christian marriage commitment should imply. (This description has echoes of the controversy of whether Sharia Law should be recognised by the state when exercising its role in overseeing exit conditions).

Yet the term *covenant* also has the other meaning, that of a unilateral commitment and is thus distinguished from a *contract* in which something promised in return from something else of equal value. This particular use of covenant also helps in defining a post-modern covenant marriage.

Instead of marriage being an undertaking that depends on the fulfilment by both parties of their undertakings one to another and thus comes to an end if one fails to do so, a covenant cannot be so readily broken. It can only come to an end with the withdrawal of the commitment originally made. As such it is not particularly helpful in defining the end of a marriage (in the way that a contract does) but is more significant in identifying the nature of the on-going relationship between the couple. It identifies that each partner has made a unilateral commitment to the other and will continue to support that commitment regardless of what the other shall do, or not do. Hence we see that this concept also focuses attention on what happens whilst a marriage is in existence, rather than seeking to define its endpoint. It is also pastorally potentially helpful in giving the partners a further guideline to their life together, as well as pointing beyond any possible end to the *contractual* relationship.

A post-modern culture places an emphasis on the individual and, perhaps, the relationship between an individual and society as a whole. In particular it seeks to set a limit on the extent to which the state, or society as a whole, prescribes or proscribes personal behaviour. The assumption is that individual choice is the norm, unless proven otherwise.

Post-modern developments seem to encourage people in marriage to view themselves as individuals as having a greater importance than the marriage itself. The form of covenant which is being considered here seeks to emphasise the undertaking that one

makes to the other, regardless of what the other may or may not do in return, setting the marriage above the individual.

Whilst this might superficially seem very different from many post-modern ideas, it is by creating a focus on the relationship of the individual to the *marriage* (and in that sense is post-modern) that it is distinctive. This idea is hinted at by Brinig and Hock when they say, “*Covenant is a concept that takes us beyond contract. ... While contracts presume rational self-interest and seek to promote it, trust is inherently non-rational. Covenant is more like trust than contract*” (2005, p276). And later, “*marriage ... features unconditional giving rather than a series of reciprocal gift-givings. The many things spouses do for each other cannot simply be regulated as a series of contracts because so much of the giving is unconditional*” (2005, p277).

This notion of covenant could be argued from a purely secular position, primarily if not exclusively concerned with outcomes. Indeed, writers such as Spaht justify the Louisiana Statute on exactly that basis (2005, pp249 ff). What we are seeking to do here, however, is specifically theological - and Christian as well. In particular, whilst we have used the term *post-modern covenant* we are not implying that such a covenant, as applied to marriage (or even comparable relationships) is only about the giver and receiver of the covenant. Rather, we continue with the understanding that God remains guarantor to the covenant and, through his on-going care for this world, will act beneficially to mediate advantageous conditions for that covenant to fulfil its expectations. God is guarantor to the on-going relationship: the state is a guarantor to the exit process.

There is a further possible distinction to be drawn between secular and Christian marriage: we have seen that the state is concerned to define marriage as a status – it specifies which people are married and which are not when it comes to the application of particular benefits. On the other hand, underlying much of what the church has sought to teach is an ontological imperative – even to the extent that the marriage service marks an ontological change: the nature of both the individuals and the covenanted relationship has altered as a result of solemnising it in conjunction with God, witnessed and supported by the wider community which the church represents.

Conclusion

Our concept of post-modern marriage covenant has taken on several new dimensions, not least the recognition that its context may vary and, possibly, include other parties, such as pre-existing children. Indeed, Christian marriage, on this basis, becomes radically differentiated from the contractual status guaranteed by the state which focuses primarily on exit strategies. Instead we have a collection of covenant relationships (each a unilateral undertaking by one person to act to the benefit of the other), mediated in the context of an incarnational God who is thus present in and becomes part of the covenant and the way in which it operates.y) (2005b)

Richard Hooker(1554-1600) The Laws of Ecclesiastical Polity Revisited
ACNS 4059. London: Anglican Communion Office

- 1 Pre-nuptial agreements are relatively recent developments set up in an attempt to forestall disagreement over property allocation between the couple in the event of a divorce – especially where there is agreement to a division very different from that which otherwise the courts would administer. The extent to which couples in the UK actually complete well-founded pre-nuptial agreements is not clear, although there is a growth in the number of law firms offering their services. In 2000, The Independent reported on an opinion poll which showed growing support for them being available and that they would not generally deter people from marrying if their prospective partner insisted on one (Independent, 2000)
- 2 The Radmacher v Granatino case (EWCA, 2009) has changed that position and pre-nuptial agreements are now much more likely to have the role that is expected by those entering into them. (NB The Court judgement uses the term *ante-nuptial contract*) Lord Justice Thorpe said, “Nor would I accept that the seekers are the predominantly male super-rich, anxious to ensure that the contemplated marriage will not prove too expensive on its future dissolution. There are many instances in which mature couples, perhaps each contemplating a second marriage, wish to regulate the future enjoyment of their assets and perhaps to protect the interests of the children of the earlier marriages upon dissolution of a second marriage. They may not unreasonably seek that clarity before making the commitment to a second marriage. Due respect for adult autonomy suggests that, subject of course to proper safeguards, a carefully fashioned contract should be available as an alternative to the stress, anxieties and expense of a submission to the width of the judicial discretion.” Nevertheless, the judgement makes it clear that, at this stage in the development of the law, pre-nuptial agreements will not necessarily be enforceable without proper consideration by the courts of the basis on which they were formed.
- 3 Allegedly, 96% of sexually active Catholic women in the US exercise birth control. (Bates, 2010)
- 4 Some might see in this the origins of the unequal partnership which long persisted as the basis of marriage – Lawler, 1993.

9. Methodology Revisited : Uncertain Theology

We have reached the point at which we appear to have exhausted the possibility of creating a single, universal Marriage Theology, incorporating all of the challenges which our marginal situations present, yet which still satisfies those who are primarily concerned with the 'mainstream' considerations evolved through many generations both of experience and theological thinking.

In each of the three selected areas for detailed consideration, we have identified aspects which appear to run contrary to any received theology of marriage, such as the nature of the commitment being made, whether or not to make a presumption of child bearing, the role of existing children and so on. We have thus far made the tacit assumption that we are looking for a deterministic and universal theology that will allow us to reach a single set of descriptors of what – at least in our contemporary context – constitutes Christian Marriage. We could, at this point, become entirely radical and reject all that is identified with received thinking and replace it with something entirely new but which works better at the margins than in the centre, ignoring all of the accumulated experience which conventional teaching provides.

We could even accept the possibility of resorting to an unlimited set of 'special theologies', in the manner of Situational Ethics, each designed to cater for a specific marginal case. However, that almost certainly will lead quickly to an geometric growth in the number of marginal cases – places where each special case overlaps – mirroring the way in which, historically, the church has dealt with issues by creating schisms.

Alternatively, we could seek a further aspect of Evidential Theology which allows us to accommodate all strands of experience and teaching, a methodology which is more conducive to this variety in a way that does not require some situations to deny the integrity of the others. O'Murchu (2004, p25ff) draws extensively on parallels with how the scientific understanding of the universe has evolved and highlights the dangers of deterministic and reductionist approaches to theology. In an analogous way, what I intend to develop is a basis for recognising that when we translate general and universal ideas about God into practical, ethical precepts, we may not always come to the same conclusions, independent of our prior experience, contemporary

cultural context, scientific knowledge and theological framework. I shall call this approach *Uncertain Theology*.

To begin to understand how we might build such a methodology we turn, again, to the experiences of scientific method, in particular those which underpinned physics in the first part of the 20C. At the end of the Victorian period, there was a widespread expectation that the then-known laws of physics could, if applied with sufficient complexity and diligence, explain the behaviour of the known universe and predict its future course. However, observations on the behaviour of light gradually created a conflict. Some studies showed that light behaved as a wave whilst others suggested a corpuscular (discrete) structure. Conventional logic demanded a resolution: only one could be true, something could not possibly be both. Recently, Robinson highlighted the impact of:

the logical principle of non-contradiction, a basic philosophical concept identified by Aristotle, (which defines) the idea that two opposed things cannot both be true. Aristotle put it that, 'One cannot say of something that it is and that it is not in the same respect and at the same time.'
(White, 2008).

In the first part of the twentieth century a flurry of developments in physics introduced both the duality principle and Heisenberg's Uncertainty Principle. Although Heisenberg is best known for his work on the Uncertainty Principle as part of the development of Quantum Mechanics in Physics, in a later book (Heisenberg, 1955) he looked at the consequence of those ideas in a slightly broader context and, in this section, we will examine how to apply analogous ideas to a theological context, especially with reference to incarnation.

The Uncertainty Principle states that if we can measure one parameter (location) exactly then we have infinite uncertainty about other related parameters (energy, momentum) However, if we know the energy level precisely then we know nothing about location.

Applied theologically, we could say that the more precisely we focus on one aspect of incarnation or whatever, then the less we know about other aspects. Conversely, the more we focus on a precise definition of a particular ethical issue, then the less we can be sure about God as revealed in the incarnation.

This formulation is similar to a comment made by Williams in his review of Pullman's *The Good Man Jesus and the Scoundrel Christ* (2010) in which he endorses an essential paradox in Christianity, “*It seems to recognise the irony that the more you say about Jesus, the more you risk getting it wrong*” (Williams, 2010).

This runs counter to the Modernist expectation that we are making continuing progress towards a full comprehension of God and what that means in this life. Even Post-Modernist thinking does not really escape from that idea, but simply remarks that some ideas seem very different when looked at from different positions. That state of affairs is rather like physics just before the arrival of Quantum Mechanics - different observers explained the same situation in very different ways: some saw behaviour that was best explained as an object having mass and position, others saw behaviour which could best be explained in wave energy terms. What the Uncertainty Principle and Quantum Mechanics did was to bring these different views into a single framework, but at the expense of being able to explain everything precisely at the same time (what Newtonian mechanics aimed to do).

Hence we might say that the more we focus on - let us say – certain principles about sexual behaviour (e.g. marriage) the less we are able to see of other factors such as God's care for humanity in all its manifestations, the less we are able to see the totality of creation as part of God's intentions.

There are two ways in which we can resolve such apparent contradictions. Robinson's example suggests that we have to *balance* the opposing principles and locate individual solutions somewhere in between the extremes. In one sense this remains compatible with a Modernist approach in that there remain objective realities and a common balancing force is used to apply them to individuals. It is also able to address some of the Post-Modern concerns, in that each resolution is tailored to particular circumstance – leaving unresolved the question of the authority on which the resolution takes place. Is it up to the church authorities (as in past generations) to provide ever more complex manuals of what behaviour is acceptable? (as in confessional manuals for priests to be used in deciding what activities, such as sex positions, were acceptable and those which were not). Or is it up to the individual to make their own judgements upon which others are not free to pass comment, except on a utilitarian basis?

However, as with the analogous development in fundamental physics, the number of special cases tends to undermine the ability to predict future behaviour.¹ It is, of course, possible that we reject the absoluteness of the conflicting principles and resolve the differences from outside of their scope. By reference to *agape*, this is how Fletcher (1966) proceeded: leave the principles in place but allow an extra dimension in which to determine the appropriate action.

The basic postulate then of what we might call *Uncertain Theology* is that there is inherent uncertainty² in determining what God expects of humanity and what our experience of God tells us about God's nature. Furthermore, if we accept that God is both continuously incarnate in our universe as well as existing outside our limitations of space and time, then our perception of God will depend on our particular place in that universe.³ Kauffman (2009) examines the objective of science, ultimately to explain everything, as being unattainable – the Theory of Everything, he contends is not possible. This is analogous to our assertion that God's incarnation cannot ultimately be contained within our collective experiences. Indeed, in the context of Evidential Theology it is a necessary consequence: if our way of knowing God is in and through the created world and we concur that we can never have a single theory of how that world works, then we can never know everything about God.

Uncertain Theology goes further and asserts that our ability to experience God and to interpret what that means for ethical behaviour (for example) are inter-related via an infinite dualism of uncertainty: the more we know of one then the less we know of the other. If we wish to be absolutely certain that a particular ethical principle is correct at all times and in all places then we lose all hold on our knowledge of God. As a result, we know that we must live with apparent inconsistencies, not as a result of a Postmodernist focus on the rights of the individual to make their own decisions, but because of inherent uncertainty, an ambiguity that will always and necessarily be with us and which no amount of Church Councils can ever resolve into certainty.

The only way to obtain some degree of certainty is to balance all factors at a macro level where the combination leads to being able to state conclusions with increasing confidence levels although such conclusions will necessarily be very broad.

Uncertain Theology therefore argues that having complete certainty in our knowledge about God (even an infinite time into the future) implies complete *uncertainty* about specific ethical issues. Our perhaps innate desire to seek ever more specific certainty about acceptable behaviour is inevitably at the expense of our knowledge of God, even through an endless amount of revelation through observation of the universe.

In some ways, this is reminiscent of a comment by Sacks, quoted by Spencer when looking at various objections to 'Doing God', "*The unity of God is to be found in the diversity of creation*" (2006, p26). Spencer himself then says, "*A diversity that makes life possible, interesting and dignified*" (p26). He might also have said that by accepting such a diversity – and its acceptability to God – we may find a better basis on which to resolve some of the pressing issues on sexual and marital behaviour.

Reactions to the notion of an Uncertain Theology may reflect the *Tolerance of Ambiguity* as found in different personalities. Initially proposed by Frenkel-Brunswik (1949) and developed by many others in the field of psychology (see Furnham and Ribchester, 1995 for a review) it may help to understand why some people press for a resolution of uncertainty in matters of faith and ethics, whilst others are more willing to accept fuzzy formulations.

9.1 Revelation and Incarnation

Thus far in this thesis we have not always made a clear distinction between the notion that God is continuously revealed to humanity through the continuing evolution of the manifest world, and the notion of continuous incarnation.

Continuing revelation begs a question: is God the same now as God was in the past? Continuing revelation may – or may not – be consistent with the proposition that God is, was, and always will be exactly the same. It is only our human perception of God which changes. There is clearly a lot of support for this idea.

On the other hand, continuing incarnation suggests that God himself is inherently evolving. This is more consistent with the sense that the God of the Old Testament is manifestly different from the God of the New Testament. The idea also offers the possibility that the God of today is different from the God of yesterday and will

become different as the God of tomorrow. It also recognises that the OT Covenant was not unending as it was overtaken by the very different NT Covenant.

Neither concept is necessarily inconsistent with the idea that there is an eternal quality to God nor that there is an inherent personality discontinuity between God as perceived in each generation, any more than I am inherently a different person now than I was as a teenager. Equally, the process of living in the world and reacting to its experiences has led me to be an evolution from the personality I once was. With luck, I am now more experienced, perhaps more mellow and willing to tolerate the process of change around me which is both faster and slower than I might want. With even more luck, I am still as committed to the values that I have always seen as important.

A God who continues to be incarnate in the world is a God that gains from the relationship with that world, most especially with humanity, and becomes a different God in consequence. In this way we can identify a loving relationship – between God and humanity – that has both a reason and a purpose.

From this observation we can also derive a sense that we can never tie God down to a single representation, whether derived from scripture, tradition or reason. What it does do, however, is to emphasise more strongly the need for us to pursue an inclusive agenda, in which the whole of humanity is not only accommodated but which must equally become part of relationship with God and our understanding of God's nature and intent.

9. 2 Application to Marriage Theology

In each of our case study areas we found aspects of received marriage theology which are, at least apparently, inconsistent with the evidence. For example, we found that the use of *contract* as an essential component of Christian marriage (rather than *covenant*) is incompatible with the evidence that people with a learning disability can successfully marry and, indeed, have a right to do so and to be supported in that process.

We could, of course, resort to a Situational Ethics approach and allow judgement of the context to over-ride broader principles in individual cases. However, in the case of

marriage as currently established, this is particularly difficult as it involves legal processes (contract) where such variation is not readily permitted.

Applied to the main thrust of this thesis, we see further reason to establish a theology of *enduring relationships*, including those which we may call 'marriage'. It must apply to people with a learning disability, to couples with no prospect or intent to procreate and to those whose life comprises more than one such relationship and where children from different relationships have to play a well defined role.

The more certain we become that God calls us to an inclusive agenda in which, through time, we have had to accommodate an increasing variety – the essence of liberation, feminist, black agendas – then the more uncertain we become that a particular formulation of marriage can be adopted both in practice and as a paradigm for our understanding of God.

Conclusion

By accepting such inclusive agenda, we allow the God of today to become different from the God of yesterday, one where our paradigm is based on all such relationships rather than the much narrower one we analysed in an earlier section. In the process we discover a God whose focus is on the integrity of loving relationships rather than the specifics of gender, intellectual capability, procreative capacity or human fallibilities.

- 1 It is a fundamental objective of scientific method that seeks to establish formulations that enable us to predict future behaviour as well as to record past behaviour. Occam's Razor suggests that we should always seek the explanation with the least complexity of conditions. We can see the same principles at work in the development of ethical formulae where there is a tendency to simplify at the expense of completeness.
- 2 Uncertainty, in this context, is very different from ignorance or waywardness but has within it a consistency of behaviour.
- 3 In the same way that a house looks very different front and back or a century after it was built, yet – in a real sense – is still the same house.

10. Challenges to the Church

We have now reached a situation in which it seems possible to accommodate the variety of circumstances found in contemporary society. A Christian post-modern covenant, tailored to individual circumstance, has been advocated, which allows for people with a learning disability and marriages where child-bearing is either not possible or is rejected. The problems of pre-existing children and other factors arising from modern domestic relationships have been addressed. We now face the issues which this will create for a church which has hitherto presented a clear and narrow expression of marriage, but which is no longer widely accepted. As well as a number of pastoral issues, we will also have to look at how this sits with our argument to separate the state's and church's roles, with the latter abandoning the historical registration role, which is principally concerned about the contractual aspects of exit conditions. Instead, it can focus on enabling the marriage to achieve the goals it sets itself at the outset.

Unlike, the more divisive issues, the challenges presented by the three marginal situations identified at the outset are likely to be accepted as deserving of a sympathetic and universal recognition. Any theology which seeks to address these factors must be developed in an inclusive manner, not just because the Disability Discrimination Act encourages us to be non-discriminatory, but more because of the universality of God's gospel message – Christ came to redeem all humankind, not just those at the centre (e.g. Acts 11).

Fagan (2003) reminds us that evolution in nature is reflected in a need for the church's teaching to evolve as our collective understanding of the world moves on. He rejects the idea that there is a static core of morality which can be derived from an unchanging view of what is normal or to be preferred. He also rejects the position of the church – and here he is especially critical of the Catholic church – that it is somehow a custodian of a set of moral values which have to be defended at all costs from the evolution of society, a criticism that may also be levelled at Radical Orthodoxy.

Of course, this does not mean that there are no absolutes nor that the church does not have a role to play in being critical of change in society. Some change is for the better and some for the worse, but what cannot be challenged is that change is inevitable. God gave humanity minds which are both curious and inventive and the natural consequence is to create change. The challenge for the church and theologians is to discern that which is essential and that which is culturally and contextually derived.

The examination of our three case studies must inevitably lead to changes in the way the church responds. It has done so before and must do so again. We might even rejoice that God has given us these challenges as, by responding to them, we become less stuck in our ways and more responsive to the actuality of humanity and its relationship with God, rather than a rigid adherence to a formulaic repetition of historical dicta.

Evidential Theology means that we can establish areas where conventional marriage teaching must adapt in order to avoid being in contradiction to the revelation of God through our perception of the universe. Uncertain Theology allows us to consider whether these contradictions lead to a revised universal marriage theology (uniform) or whether we must accept that certain matters are both true and not true, depending on the circumstances (unified).

By learning more about the basis for marriage at the margins we can derive a better understanding about the general case for marriage and how the church can better support the institution whether or not this is uniform or unified in its fundamentals.

We have seen that the connection between procreation and marriage has varied considerably dependent on the prevailing cultural context and place in history. Yet, the examination of both post-menopausal marriage and those where one partner, or both, has a learning disability highlight even more sharply the fact that procreation cannot be a necessary condition for Christian marriage. Social trends have clearly indicated that the secular view is that procreation is no longer a sufficient condition either.

The advent of divorce has put a considerable strain on the use of marriage as a contractual arrangement – what was originally largely meant to be used in the event of

the death of one partner (more especially when a wife survived her husband) has increasingly been pressed into service to help untangle a marriage where both partners are very definitely alive – and usually kicking.

The more recent rise in the number of cohabitations has meant that there are now many more cases where a couple split up without the assistance of a marriage contract to help in deciding the basis on which their joint assets are divided. As ever, the issue is largely focused on questions to do with property – in some cases the most valuable asset is the right to a pension fund. Consequently there is pressure for similar rights to those given to married couples to be given to those who have cohabited and established a joint household but remain unmarried.

None of this bodes well for the concept of Christian marriage as a contractual arrangement. It is high time that the church began the process of re-establishing its role in the formation of marriages but in a way which is not only distinctive but which is both helpful to the couple and enables the church to be more inclusive in its mission. A priority is to re-appraise the use marriage as a paradigm and seek release from the limitations which it has imposed.

Politicians in many countries still find mileage in claiming to be supportive of *The Family*, whilst being surrounded by ever increasing evidence that the nuclear family of the mid 20C is no longer the principal basis of society. If anything, there is growing evidence that that period was one of unstable transition from a time when marriage was primarily about those other than the couple themselves (such as procreation and rearing to sustain the family line) to a time when the focus is primarily on the relationship between the couple themselves. The Romantic element of Modernism introduced the opportunity for marriage based only on love, not property, whilst simultaneously bolstering the view that an essential element of the expression of that love should be seen in procreation.

The tensions that this transition caused began at least as early as the time of the Hardwicke Act – see the debates which preceded the passage of the legislation (Lemmings 1996) although it is always difficult to ascertain how far parliamentarians are reflecting general social views rather than replicating that which they think society wants to hear.

The evidence indicates the extent to which, at least in the UK, secular attitudes towards marriage have become very much more focused on the *relationship* – and its quality – rather than some teleological notion based on what the *outcome* of the marriage should be. This has led us to question the extent to which both marriage liturgy and church teaching have continued to be based on outcomes with the result that the nature and quality of the relationship being celebrated and pastorally cared for have been restricted and, in some cases, marginalised.

10.1 Each To Their Own Last

We have established the distinction between the Nature (ontology) and Purpose (teleology) of marriage as well as distinct uses of contract and covenant as well as differences between secular and theological perspectives: it is time to clarify where the church has a role. Historically, the church has been heavily involved in many societies in collaborating with state authorities in establishing and maintaining legal controls over marriage laws. For some periods, the church generally, but the Catholic church especially, has combined both a secular and a theological purpose in seeking to control not only what is legally defined to be a marriage, but also to use this as a springboard for controlling what happens inside a marriage, notably sexual behaviour.

Following our Nature/Purpose dichotomy, we can assert that there should be a continuing evolution in distinguishing the roles of state and church. Whilst the Nature of marriage could be seen as largely an observational matter, and we can simply stand back and track the changes and developments within society in an entirely passive way, the state (in almost all cases) reserves the right to enact legislation that sets limits - for example, the minimum age for sexual activity. Since it varies from one state to another, and from one generation to another, such matters cannot be a reflection of an enduring theological insight, even if countering the effects of child abuse clearly remains an important matter for the church. The role of the state is frequently related to its role in rights and responsibilities, viewed broadly in a functional manner.

The legal code is determined, and evolved, on a utilitarian basis. For instance, limits on the familial relationship between those allowed to marry is largely based on an awareness of the genetic implications. Incest is barred, not because it is ethically ‘wrong’ but because it adversely affects any progeny, whose ‘rights’ may not be

protected by the incestuous parents. Debates on first cousin marriages continue because of uncertainty over the evidence (BBC, 2005b; BBC, 2008a; Public Library of Science, 2008; Paul & Spencer, 2008).

The church's teaching on marriage becomes increasingly dysfunctional when it confuses the Nature and Purpose aspects, especially by continuing to participate in the state functions. The Nature/Purpose dichotomy validates a role for the church in pursuing a teaching and prophetic role with respect to marriage and relationships, based on its perception of Purpose, rather than an unsatisfactory attempt to assert statements about Nature, which have generally tended to be out of step with contemporary behaviour.

If the church lets go of its involvement in the state function, then it is more able to speak prophetically about Purpose. It can, for example, more clearly distinguish between statements about marriage in general and Christian Marriage in particular. If it abandons attempts to control the rights of *every* citizen to behave in a specific way, it is free to define the subset of those who accept the principles based on Christian theology. Attempts to make the legal registration of marriage a purely state matter date back at least as far as the immediate follow-up to the Hardwicke Act (Outhwaite, 1995, p116) although others still asserted that only the church could validly make a marriage.

Accepting this more specific role provides a clearer basis on which to promote behaviour based on an overall perception of Purpose, in the same way that it does so for behaviour more generally. For example, in a social context in which the state definition of marriage clearly assumes a probably finite and terminable relationship – divorce or even cohabitation are enshrined in law often formulated in a Human Rights context – it has become increasingly difficult for the church to sustain a teaching that indicates otherwise, as a requirement for everyone. Instead, it could become free to advocate or commend a principle for anyone, generally consequent on an acceptance of the Christian theological context from which it flows.

Similarly, it might find itself able to be a much more effective participant in debates on fertility treatments, abortion, saviour siblings and similar matters, if it stood back a little from the general legislative process. Whilst accepting the right of the state to

legislate to make specific practices legally permissible, it could more actively seek to proselytise and increase the proportion of the population who voluntarily accepted a rejection of some of their rights.

Further, this distinction makes it possible, if no less difficult, to address the marginal cases which this thesis has established as a litmus test for Christian marriage theology. Establishing a clear basis on which children born before a marriage should be identified as a component of a Christian marriage now becomes possible. By withdrawing from the Nature argument, we can more readily accept presenting situations for what they are, rather than for how they challenge a potentially inaccurate perception of what marriage is.

A greater challenge is presented by an Uncertain Theology analysis which seriously reduces the scope for the church to talk in terms of absolutes: 'divorce is a sin and should not be permitted' may well be true in some contexts but not in others. Uncertain Theology challenges us to seek a deeper understanding that can accommodate both situations without each denying the integrity of the other.

10.2 Church v State

Spencer (2008) has developed an important framework within which we may resolve some of the difficulties in the church's role in marriage. *Neither Private nor Privileged* seeks to establish a role for Christianity in contemporary society.

He begins with four methods of engagement in the public square which are to be found in the first five chapters of Acts, even though "*this earliest period of the Church's life is unlikely to provide us with a blueprint for its public life today*" (2008, p33):

- proclamation
- assembly
- action
- confrontation

Compare this list with the structure by Gomez (2001):

- God's love
- people
- identity
- truth

Recognising that there is a wide spectrum within which these methods can be developed, Spencer first establishes that neither extreme – privatisation or theocracy – is tenable. He demolishes the notion that Britain is a Christian society whilst simultaneously recognising that much of the legal and social mores of British society are so deeply founded in earlier interpretations of Christian teaching that it is also not yet possible to describe Britain as post-Christian. However, he discerns a strong tendency towards individualism. In a sense, he argues that British society is neither Christian nor anti-Christian.

The *theocratic temptation*¹ is thoroughly demolished as if there were no element of it left. Yet, we find in the church's role in marriage registration, a theocratic residue. The way in which this role is hung onto is closely related to a claim that Christian marriage ought to be the way for everyone and that secular options for marriage registration outside church are poor substitutes. It is clear that there remains a hankering after a theocratic result and that alternatives (including civil partnerships) are so wrong that they should be argued against – for anyone, not just those that accept the basic Christian premise.

On the other hand, Spencer recognises that Christianity is an essentially social faith, dealing inherently in relationships as its Unique Selling Point. Whether we are talking about the collective or personal relationship with God, or its reflection in inter-human relationships, it is clear that Christianity can never become wholly privatised or it loses its *raison d'être*.

In finding a way forward, Spencer begins with an essentially incarnational view, “(Christianity) is first and foremost a story to be told ... in public, about what God has done, is doing and will do” (2008, p33). In so doing, “the Church will be a challenge to society just by being itself” (2008, p39) and cites the Evangelical Alliance, “Movement from being heard primarily to convey a message of condemnation to proclaiming the language of compassion is an

imperative for people claiming to advance the Kingdom of God in the current context” (2008, p41).

Should the church be ‘public’ or ‘political’? *“Frustratingly, neither Scripture nor tradition gives a particularly clear steer on the answer” (2008, p53). “We should not ... seek after the demonstrably and eternally correct model for the Church’s public witness, but rather for the most appropriate one in the given circumstances” (2008, p55).*

Spencer concludes, as a methodology upon which the church can better engage with society:

The answer lies neither in privatisation nor privilege. Instead ... it may be found in the slippery and shifting concept of the ‘public good’. Christianity is a public religion and nothing is going to change the Christian imperative to public proclamation, public assembly, public action and, if necessary, public confrontation. However, the precise role that Christianity plays within the public square can and does change (2008, p64).

Finally, *“Ultimately, the role of Christianity in the public square of twenty-first century Britain will depend on the extent to which, by doing what it must do, it can persuade the public that it is ‘doing good’” (p85).*

If we apply Spencer’s methodology to the specific issue of marriage, then we see that the church must reject any temptation to theocracy – not seeking to impose a specific notion of marriage on unbelievers – but work towards a conclusive argument that its teachings represent an insight into what works best for humanity.

However, as Spencer identifies, this process has to cope with tendencies in society to produce not only unified dicta which are applied to everyone, but also at the same time following the trend towards greater individuality and private choice in many of these matters. This brings us back to Uncertain Theology where we may find more lasting truths that are general in their expression, allowing for considerable variation in local application. Thus, to take a small example, it may continue to be useful to support the notion of the state sponsoring ‘contract’ marriage in order to give universal exit rights, whilst advocating a ‘covenant’ as the basis for distinct Christian marriage. A God-sealed relationship may or may not be backed by a contract – even if there is no doubting the God-sealing component. Equally, it may be possible to omit the contractual aspect altogether from the religious marriage, leaving such matters

wholly to the state where it may be willing to deal in more precise terms which may change in time and context in a way that is a challenge to a theological perspective.

10.3 Meeting Social Change

Changes in marriage practice in the period since biblical times have been charted by various writers (e.g. Coleman, 2004; Coontz, 2006d) and the pace of change seems to be greater now than ever before. Whether or not that is a true perception does not alter the sense of threat which many people believe to be present, both within and without the church.

The reaction generally is for the church – despite Spencer’s stance – to create ever greater defences for what is understood to be a traditional position, even if tradition often reflects the (transient) status of perhaps two or three generations previously.

For example, reacting to the decline in birth rates across many European countries, Pope Benedict has suggested that Europe seems set on a path to oblivion (Traynor, 2007). The clear implication is that it remains the duty of all women to procreate to maintain the existing population. Despite various attempts to replace this primacy of procreation in the purposes of marriage, it still underlines many responses to contemporary change. (Current concerns about the sustainability of modern society in the face of climate change may well question the moral basis for even sustaining the current population size).

Occasionally in the past, the church has led a recognition of social change and the implications for ethical and theological beliefs. The abolition of the slave trade was led from an evangelical purpose, yet even as the 1807 Act was being passed, many religious organisations (including the church and missionary societies) were still slave owners. The acceptance that slavery and slave ownership was unacceptable took longer to be the orthodox view, even within Western countries – and slavery still continues in the 21C in parts of the world whose economic and political development is reminiscent of the early 19C. Equally, the need to establish a more formal basis for marriage registration, which led to the Hardwicke Act, necessitated a positive response from the church and its active involvement.

Formal events such as these are often catalytic changes which have resulted from a long term underlying change, driven by informal change within populations. There are several important lines of evolution regarding marriage to which the church will eventually have to react, including:

- legal protection for unmarried cohabiting couples
- divorce protection for legally unmarried couples
- growth in cohabitation
- abolition of stigma of illegitimacy
- growth in proportion of children born to unmarried parents
- growth in serial monogamy
- decline in religious marriage ceremonies.

The role of the church in response to these developments may be found using Spencer's methodology:

Firstly, we must seek to identify where God is revealing himself in this process: are these changes part of the incarnation – God in people – that must be accommodated in contemporary marriage theology and teaching?

Secondly, the church needs to be confident in what elements of its past teaching are inherent to an eternal gospel message and which parts were a response to a former situation.

Thirdly, it must be prepared to identify the public good which results from an adherence to its teachings, clearly addressing the situation as it is found and not seek a further theocratic temptation to impose its view on the whole of society through the process of law.

Finally, it must be prepared to confront society on those aspects where there is fundamental divergence between prevailing Christian principles and those found in society at large, especially when embedded in state provision. But, as Spencer points out, confrontation must be a last resort and the aims of the church are generally better prosecuted by persuasion.

10.4 The Decision to Marry

We need to consider how the stance of the church towards marriage impacts on the attitudes of those whom it seeks to influence.

Current trends (ONS, 2007c) indicate the continuing growth in the proportion of cohabitations and children born to unmarried and/or single parents. Turned around, we see a marked decline in the proportion of children born into a so-called traditional nuclear family, with both parents:

- married to each other
- married before children conceived (or at least before first birth)
- living together
- having no previous children by another partner
- no previous marriage

Kasriel & Goodacre (2007) report on studies aimed at providing the Church of England with a greater understanding of the attitudes in contemporary society towards formal marriage, especially in church. They identify barriers to marriage, including:

- belief that marriage is no different from cohabitation
- rejection of idea that a relationship needs to be affirmed by an external institution
- belief that cohabitation is less stressful than marriage
- negative experiences of marriage
- fear that marriage will change relationship for the worse
- not ready to make long term commitment
- preoccupation with outlays
- desire to wait to be able to afford an expensive dream wedding

They highlight the rise in perception of a wedding as a particular event, only loosely connected with the formation of a life-long relationship (p2). Consequently, they distinguish between barriers to marriage and those to a wedding. One result is a widespread confusion about who the day is for.

Reibstein concludes that a married legal status appears to have little correlation with long-lasting relationships (2006, p13).

Since the church remains prominent in espousing and promoting the above characteristics as an ideal Christian form of marriage, it is likely that this is having a declining effect. It may even be argued that by doing so, the church is accelerating the trend. This is certainly consistent with the findings of Kasriel & Goodacre (2007, p5).

Some writers (e.g. Cherry, 1998) have examined varying marriage rates on the basis of the perceived *value* of marriage: the greater the apparent value of entering into a marriage, the greater the number doing so. Cherry postulates that decisions are based on the net balance between what each partner contributes into and receives from the relationship. If this is the basis of decision-making then it is clear that anything which underpins or promotes such a sense of value should result in increased numbers of marriages.

Grosbard-Shechtman (1993) has developed an economic analysis of marriage and the way in which the numbers of people entering marriage are related matches supply and demand. This approach to marriage rates is essentially market-oriented: supply and demand are moderated by a price mechanism, assuming that decisions on such matters are taken rationally. Using non-monetary price mechanisms, she identifies ways in which the perceived value of a marriage affects its take-up. In any event, the decision is based on the perception of value *going into* a marriage. As we see below, an alternative approach is to look at the perceived costs of *coming out* of a relationship.

We are currently seeing an increased resistance to the concept of marriage with fewer numbers deciding to become formally married (Kasriel & Goodacre, 2007), although, as Thatcher (1999) postulates, many who cohabit may have a similar perception of their relationship as those who have legally married. Haskey & Lewis (2006, p41) highlight respondents in their survey who spoke of the risky nature of marriage in contrast to other forms of enduring relationships. This trend is in defiance of the continued promotion of marriage by the church and other institutions.

It is possible, therefore, to postulate that society has moved from a situation in which the decision to marry is based on its perceived value to something different.² A

possible explanation can be found in Game Theory³ and the *MiniMax Theory*,⁴ suggesting that social decision-making has become inverted – the cost of marriage is now more important than its value and, especially, the exit costs if either partner wishes to terminate the relationship formally. This may explain why increasing numbers opt for cohabitation rather than marriage.⁵

In such circumstances, the effect of the church's promotion of marriage, in the terms set out above, serves only to worsen the situation since it heightens the perception of the cost of a failed marriage. Whilst few people probably enter into marriage (or even cohabitation) with an explicit consideration of its finiteness, nevertheless, the omnipresence of relationship failure must have a significant impact. Church marriages, in comparison with civil marriages, are likely to be perceived as having higher costs associated with failure. In the Spencer model (2008) it is clear that the need to persuade society of a public good has failed.

Thatcher writes:

Since only about half of households (in Britain) consist of or contain married couples, churches need to get better at welcoming 'non-traditional' families. They need a theology of marriage which assumes that marriage is normative, while at the same time accepting without reservation alternative relationships and family forms, and providing encouragement and support for them (2007, p134).

Kasriel & Goodacre issued a clear call for the Church of England to clarify not only what it stands for, in relation to marriage, but also to explain how it can support individual couples.

The same dilemma faces political parties who seemed doomed to failure in squaring this particular circle. If they advocate 'family friendly' policies – especially those that give some financial or taxation discrimination in favour of heterosexual couples – then they are accused of consigning half of all children to adverse life chances, including a higher probability of growing up in what is officially described as poverty. Equally, when social benefits and taxes are defined in terms that are as inclusive as possible – such as recognising without discrimination children whose parents are not formally married or where there is a civil partnership – they are criticised for undermining the role of marriage and 'the family'.

Is there a way to reverse this trend in perceiving marriage as having a high cost of failure? If our analysis is a reasonable reflection of what is increasingly happening in western society, then it is necessary to reduce the perceived cost of failure associated with a church marriage. This will entail the church developing a presentation of marriage which diminishes the sense of failure and the elements which make up the perception of cost as well as reducing the risks of failure. It might be much more effective to talk in terms of the degree of success – positive rather than negative.

In particular, it is likely that this will not happen without a radical re-appraisal of attitudes towards:

- child-rearing as the principal purpose of marriage
- children from different partners
- cohabitation (including child-bearing) before marriage
- serial monogamy

as well as replacing the creation of guilt associated with relationship failure with a more understanding and healing approach. Whilst avoiding the trap of suggesting that it is acceptable to enter lightly into relationships, especially those involving child-rearing, or that failure is irredeemable, similar attitudes to the wider aspects of sin should be re-imported into marriage theology.

In the above, the ‘cost’ of marriage is couched in non-monetary terms. However, it is also significant that church weddings are often associated with expensive ceremony and celebration, to the extent that they are becoming the preserve of the more well-off families. Of course, a church wedding at the essentials need be little different from a similarly based secular wedding but it is popular perception which a determining factor. It is interesting to note that some of the more outspoken opponents to the Hardwicke Bill were similarly concerned that the expense involved (traditional marriage by consent was essentially free) would be beyond the means of many of the “*laborious and industrious sort of people*” to the extent that it would encourage “*abortion, bastardy and infanticide*” (Outhwaite, 1995, pp88-89). Such claims might have been excessive but there was real concern that a Bill, originally aimed at protecting the interests of families with significant assets, would be to the disadvantage of everyone else.

The church encourages, in all aspects of life, that each person should aspire to ‘godly’ behaviour, but fundamentally addresses the consequences of what happens when this is (necessarily) not achieved. Although some generations have emphasised a negative attitude to sin and redemption, Christian thinking has, for the most part, found benefit in placing the healing nature of redemption and forgiveness to the fore. In some, but not all, churches, the theology of marriage and divorce has also embraced this possibility. This inherent characteristic of Christian thinking has not (yet) dominated the broader perception by society of what a church marriage entails – especially in the context of failure.

Opportunities exist for offering liturgical support at the end of a relationship (both marriage and cohabitation), similar to support for bereavement and death – as well as the involvement of existing children (and even their parents) in marriage liturgies.

In so doing, it may well be that a more comprehensive theology of relationships will emerge which will have increasing application and benefit in other circumstances than the narrow concept of *marriage*, at least as it has been understood hitherto. Christian theology is dominated by a concern for relationships – whether between humans individually and collectively or as between God and humanity.

10.5 Spiritual Work with Learning Disability

Services for people with a learning disability are patchy (Powrie, 2001) and there are important gaps not only between different professions but even in the individual strands of service delivery. In particular, the spiritual needs of clients have only relatively recently been taken seriously (Swinton, 2004b). In a review of the work by the Mental Health Foundation, Carter says:

Far too often, the religious and spiritual needs and experiences of people with intellectual disabilities go unrecognised or unsupported. Although growing attention has been given to understanding the contributions that congregations can make to include people with disabilities, less guidance is available for agencies and direct care staff concerning their roles in supporting religious expression (2007, p83-84).

The Care Standards Act (2000) led to the creation of National Minimum Standards which included, “*Standard 11.4: Service users have opportunities to fulfil their spiritual needs*”, although there is no indication of how this is to be measured. The previous

legislation, Registered Homes Act, (1984) made no comparable provision and was, in any case, much less prescriptive about the nature of care.

Swinton has been developing an understanding of spirituality and disability and produced a report in 2004, *Why are we here?* It presented the findings of a two year nationwide research programme designed to explore the spiritual lives of people with learning disabilities:

The people with learning disabilities we spoke to talked about spirituality in different ways. Some people said it was about God. They felt that God loved them and cared for them and that this was the most important thing in their lives. Other people thought that spirituality was about having friends and this gave meaning to their lives. People felt that it was important they belonged to a group or a community. Some people liked to go into the countryside. Some liked music and art (2004a, p6).

This makes it clear that there is no overall reason why people with a learning disability should be excluded from full participation in spiritual activities – and this must clearly include support for entering into enduring relationships, including formal marriage.

Memmott, the Oxford Diocese adviser on autism, has published guidelines for welcoming into church people with autism or Aspergers Syndrome. She makes it clear that people with an Autistic Spectrum Disorder (ASD) have difficulties in forming casual relationships, but once they form a relationship with a person that they can trust, it can be a fulfilling part of their life. She sets out specific guidance to enable churches to advise people with ASD who wish to marry and have children:

Marriage, sex and relationships for those with an ASD can present a number of challenges. It may work extremely well and lead to a long and loving relationship, but equally it may not if there is a lack of compatibility and understanding. One might, of course, say the same of any new relationship (2008, p25).

We have already noted the General Synod initiative: *Opening the Doors*. It sets a baseline for spiritual work with people with a learning disability:

In modern times, being made in the image of God has also been understood as the capacity for relationship. ... all people are capable of having a relationship with God and with their fellow human beings and are entitled to be treated with dignity and understanding (2009, p10).

and, “There is one further misconception that must be dispelled. People with learning disabilities are not objects of charity but subjects of the Kingdom of God” (2009, p14). The report sets no limit to confirmation or communion based on a learning disability, although it does make it clear that historical practices may have to be adapted to allow an equality of

access. For example, it highlights the need for sensitivity over such liturgical actions as the laying on of hands with some ASD people where there is such a heightened sensitivity to touch that the negativity may outweigh the significance of the liturgical action.

If there is no reason to exclude people from the sacrament of communion on the basis of a learning disability then it seems to follow that neither should the church exclude from marriage on the same basis. This is not to diminish the practical issues which might ensue but the argument that such people are not sufficiently capable of understanding or appreciating the spiritual aspects clearly does not stand.

10.6 Uncertain Marriage Theology

Using Evidential Theology has led us to call into question a number of traditional elements in marriage theology, solely on the basis that they are incompatible with our observations of the world around us and the way in which it has evolved.

A deterministic approach to this conflict would necessarily require us to re-define marriage as a theological concept and to do so in a radical way. It is clear that some long-held views would have to be rejected, leaving us without the benefit of accumulated experience forming the basis of pastoral advice given by the church.

Alternatively, we may be persuaded of Uncertain Theology, enabling us to consider that certain apparently contradictory statements may both be valid – if only we can identify the circumstances under which each holds true.

From a legal point of view, Dewar (1998) recognises that marriage law is necessarily incoherent, although Barlow and James would prefer it to be not so:

we argue that notwithstanding what Dewar has termed ‘the normal chaos of family law’ (whereby we should not expect family law be anything other than incoherent given it is dealing with an area of social and emotional life itself ridden with paradox and contradiction, and given that such lack of coherence may often be politically convenient), legal regulation in this sphere should be guided by a family’s function rather than its form if the functions of family law itself are not to be rendered obsolete (2004, p145).

Thus, to take one of our example areas, it may be appropriate in many cases to include reference to future child bearing and rearing as one of the elements of a Christian

marriage whilst recognising that where it is neither possible nor chosen, may still contain a proper marriage which the church validates and supports as positively as that which is seen to be more conventional.

As we shall see below, this uncertainty leads to a need for a much more flexible liturgy which can accommodate the variety which is found in 'nature'. The evidence is that the church's model of marriage is neither the only context for success (by whatever measure) nor does it guarantee it. Responding to where people are at, provided that we are convinced it is neither contrary to Scripture (using whatever interpretative methodology we choose) nor Evidentially incompatible, will lead the church into being better able to support those who are prepared to come to it for support. It will also be better able to fulfil a prophetic role, calling to account those whose approach to enduring (or not so enduring) relationships is clearly incompatible with the principles just identified.

10.7 Liturgical Developments

The development of specific liturgies lies outside the scope of the present work. However, we can identify several elements which our research suggests should be made available in new liturgical forms, allowing the church to express its role in relation to those who come to its doors. Based on Uncertain Theology, the underpinning principle should be to set as few boundaries to inclusion as is possible, consistent with any overall theological principles.

For example, those arranging funerals for people who have not been practising Christians sometimes seek to have all religious elements removed, using the church only as a convenient meeting space. It would be unreasonable to seek to reduce a Christian liturgy to purely secular elements. In any event, our thesis has established important differences in principle between a secular and a Christian concept of marriage. At the very least, a liturgy must contain evidence of a covenant undertaking between two willing partners, with an understanding and expression relevant to their natures and context and which is made in the presence of God as a party to the enduring relationship.

Beyond such irreducible elements – and the above may not be a complete or exclusive list – the remainder of the liturgy ought to contain many optional parts which can be included or excluded as befits the particular Christian ceremony:

- the ability to make a contract is not relevant
- the couple may not be able to envisage having children in the future
- there may be existing children whose parents are either or both of the couple
- the couple make a covenant with existing children or dependants
- the role of the wider Christian community is recognised

In addition to developments to the marriage liturgy there are important life events for which the church should also make provision, seeking to make it evident that, as a body of those dependent on grace from God, it is being alongside individuals and couples wherever they are:

- relationship breakdown, whether or not a legal marriage
- infant baptism when there are complex parenting situations

It may also prove possible, even desirable, to provide a liturgical context for those who wish to enter into an enduring relationship as a covenant made in the sight of and with the support of God's grace, supported by the church, without necessarily calling that relationship 'marriage' – or those who had a legal marriage some time in the past. In the context of Evidential Theology, this is where people are found and, unless we insist on a very specific notion of marriage based on a fixed paradigm for the God-Human relationship, we should not deny.

- 1 The accusation that Christian engagement in the public square naturally tends towards theocracy.
- 2 Various writers on contemporary attitudes to marriage and child-rearing relationships (eg Coontz, 2006d) suggest that increasingly marriage in a formal and legal sense is perceived as high risk, especially given the complications in extricating from a failed marriage (Lawler 1993 xi). Cohabitation is seen as more comfortable and requiring a lower level of commitment, both from self and from the partner. (Of course, many people may well drift into cohabitation and child-rearing without taking a conscious decision, but these arguments may equally apply as an explanation of why they do not move on to marriage). Note that we are here not talking about the ever-rising cost of weddings as that is probably only second-order.
- 3 Game Theory is a well-established approach to strategy and the manner in which people make decisions. Insofar as couples decide for or against formalising their relationship on a rational basis, then Game Theory may offer some insight. (However, Kasriel & Goodacre indicate that people *"do not necessarily think about relationships logically or 'rationally'"*. (p12)

If we are able to assume that decisions are taken rationally in the light of available evidence on outcomes then, in a pure form, Game Theory suggests that the outcome of a decision is predictable (even if stochastically).
- 4 A fundamental theorem in Game Theory is the Minimax Theory in which it is postulated that decisions are generally based on minimising the maximum loss. That is to say, people choose not to pursue the largest gain if that choice is associated with the risk of largest loss.
- 5 Whilst many still accept the church's claim that successful marriage offers the best outcome and the highest level of well-being (both for the couple and for children they may rear) they also appear to believe that the cost of a failed marriage is equally high, if not greater.

As Kasriel & Goodacre put it, "Instead couples choosing to get married make their decision either on the basis of the attraction of marriage for them as individuals ('pull' factors) or of the perceived problems of remaining unmarried ('push' factors')." (p14)

On the other hand, successful cohabitation may not bring the same level of well-being (such as a sense of security, stability and so on) but it is also seen to be very much less stressful if it fails.

11. Conclusions

This project was undertaken as a response to a general observation that the church has gradually lost ground in its direct role in the formation and recognition of marriages. In part it seemed that this was because the theological and practical definition of what constitutes marriage has diverged from actual experiences in contemporary society.

We could have tackled this dissonance head-on but this would have required us to cope with all the attendant difficulties of addressing the accumulated baggage of traditional representations. Instead, this project has sought to use three situations in which there are very new aspects to marriage which the church needs to incorporate into its theology and practices, but which do not directly bring with them the problems of historical attitudes. In this manner it has been possible to look at some of the fundamental assumptions regarding marriage, as well as extending consideration into areas where there is limited existing work. In particular we have sought to establish a theology for learning disability which stands in its own right, rather than as an extension of physical disability.

Firstly, by application of Evidential Theology we argued that the use of a particular definition of marriage as a paradigm for other theological constructs is problematic as much as feminist theologies have found that other male-oriented paradigms have been for the consideration of gender issues. As a result, it is concluded that our notion of what constitutes marriage should primarily be derived from what we observe to occur in nature, rather than to impose a specific, culturally-dependent definition on nature.

Secondly, our consideration of marriage at the margins reveals that a number of elements which have historically been seen as part of the theological *sine qua non* of marriage are far from being universal truths, only true in a possibly majority of cases. In particular, the contractual basis and the procreational elements are found to be theologically non-essential. That there are some marginal cases where such characteristics are justifiably not present, casts doubts on the necessity for them in other situations. Indeed, the church needs as a matter of urgency to develop a positive pastoral and theological relationship with those who remain childless, either by choice or as a matter of fact.

This leads us to posit the following assertions:

- a. The church should primarily be engaged with an inclusive agenda, being convinced that all of humanity is made in the image of God, not simply (in the Old Testament approach) those who are seen not to embody significant defects. Our incarnational understanding of God should be seen through the whole of creation and we should reject any beliefs about the nature of God and God's purposes with and through the created world which require us to disregard some section of humankind.
- b. As a consequence, a major task for the church is in promoting, supporting and healing inter-personal relationships including, but not limited to, those which are procreative. We should reject any approach which focuses instead on regulation and limitation. Rather, we should wonder at the complexity of God's creation of human relationships and that, as with every other aspect of scientific investigation, we continue to discover more knowledge about that complexity in an unlimited manner.
- c. Enduring relationships, including but not limited to those which society is prepared to call 'marriage', require particular theological consideration.
- d. Human relationships should only be used as a paradigm for a relationship with God after very considerable care and a concern not to use them to limit either type of relationship.
- e. People with a learning disability should be allowed to form and be supported in personal relationships, including those with a sexual dimension which may sometimes be called marriage. A particular responsibility falls on society to support in parenting those who, for whatever reason, find themselves not fully able to perform that role on their own. We must be very wary of any approach which seeks to define certain sections of humanity as not having a right to seek to have children.
- f. There is no duty to procreate, regardless of the marital status. Such an activity should be set within a more comprehensive understanding of how humanity should be responsible stewards of God's creation and not subvert that intent to specific, often political, ends.

g. Equally, there is no right to have children, only a right to engage in sexual intercourse, taking due consideration of the responsibility for any ensuing children. Access to means to influence fertility both positively and negatively is not an intrinsic right, but must be considered on the basis of more fundamental rights and responsibilities.

h. The rights and duties of parents have evolved considerably and a theological perspective can no longer assume the uni-directional model of:

virginity -> marriage -> procreation -> parenting -> dependency

i. Churches should provide pastoral and liturgical support for people entering into an enduring relationship (which in itself may or may not have an explicit beginning), including but not limited to those called 'marriage'. In particular, attention has to be paid to the formation of enduring relationships where children of either partner already exist, whether or not biologically related. In so doing, enduring relationships, including those known as marriage, should be presented in a manner that places more emphasis on the positive rather than the negative outcomes such that people are not deterred from seeking the church's support in such relationships because of the perceived emotional costs of failure.

j. The church should distance itself from the legal regulation of marriage or other formal enduring relationships, especially where that regulation is primarily concerned with establishing the possible subsequent exit conditions. This regulation should be the task of the state which has the right and the power to establish the necessary contractual framework and the means to enforce individual judgements.

k. The church should focus its practice on the formation of an inter-dependent covenant basis for enduring relationships which in itself is not dependent on the contractual structures. Such an approach should be primarily positive and enabling rather than negative and restrictive, concentrating more on the quality rather than form of the relationship. There should be a presumption in favour of offering the church's support, including invoking God's blessing, on enduring relationships regardless of their form – distinct from a current widespread perception that the church is more concerned to set strict limits.

l. A theology of enduring relationships – which may encompass marriage but extend significantly in scope – should recognise the incarnation progressively revealed in and through an ever-changing pattern of personal and social relationships. All human beings are created in order to evidence that incarnation, not just some of them. The church should seek to liberate everyone (regardless of age, gender, sex and physical or mental ability), supporting those who face social, legal, economic or other boundaries to achieving fulfilment within and through enduring relationships.

Finally, this leaves us with the task of assessing:

- how to apply the findings of this research
- if the work has been successful in achieving its objectives
- what further work is indicated

This thesis was undertaken in order to challenge some of the current perceptions of marriage within the church in order to promote a means of connecting more effectively with a society that increasingly rejects the church's views.

We have found a number of areas where there is particular dissonance and have proposed solutions which would require a substantial shift in current practice.

For the most part, any effective change will have to come through the institutions of each church. In the case of the Church of England, the focal point of change has to be General Synod which has, in the past few decades, been more concerned with same-sex relationships than heterosexual ones, including marriage. A clear break with past traditions would be involved in forgoing the legal registration role. It is likely that there will be a concern that to do so would risk losing more ground to civil marriage ceremonies. This is a regrettable defensive stance which risks further alienating the church from more of society. If the church's view of marriage does not appeal to those it seeks to influence then, with no compulsion to come to the church for marriage, there will be further erosion of its role. This is not to suggest that principles have to be foregone but rather that the church needs to be much clearer on what are theological imperatives and disentangle these from contextually dependent specifics which may have to be changed.

It is asserted that the solutions put forward in this thesis form a basis for a new agenda which would lead to greater pastoral effectiveness in a wider range of contexts than at present. In practice, it is equally clear that significant mind-set changes would be needed at all levels in any institutional church, with a clear lead being set from the top/centre.

However, some areas which we have identified need further work, especially those relating to the spiritual support for people with a learning disability as well as preparing specific liturgies which encompass the developments we have highlighted.

In an Evidential Theology model, it is clear that the reasons why individual couples reject the church as a locus in which to form their enduring relationship need greater investigation. The fact that this is happening is well established but the reasons are less clear and probably more dynamic and socially contextual.

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